

# RIVERSIDE COUNTY PLANNING DEPARTMENT

Steve Weiss, AICP  
Planning Director

## NOTICE OF EXEMPTION

TO:  Office of Planning and Research (OPR) FROM: Riverside County Planning Department  
P.O. Box 3044 4080 Lemon Street, 12th Floor  38686 El Cerrito Road  
Sacramento, CA 95812-3044 P. O. Box 1409 Palm Desert, CA 92201  
 County of Riverside County Clerk Riverside, CA 92502-1409

Project Title/Case No.: Plot Plan No. 25922/EA42860

Project Location: In the unincorporated area of Riverside County, more specifically located on the north side of Via Abril, south and east of Calle Cielo, and west of Tenaja Road

Project Description: Plot Plan No. 25922 proposes to establish a Class II Kennel to house and care for the property owners' own personal dogs. The project includes a proposed 480 -square - foot accessory structure for kennel use, an existing 80 square foot accessory structure for kennel use, a dog playground area, and an existing patio cover attached to the dwelling with food and water troughs. The kennel is not open to the public.

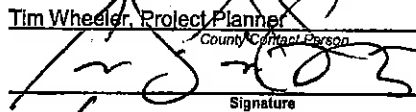
Name of Public Agency Approving Project: Riverside County Planning Department

Project Applicant & Address: Timothy and Elizabeth McVickers, 17370 Via Abril, Murrieta, CA 92562

Exempt Status: (Check one)

- Ministerial (Sec. 21080(b)(1); 15268)  Categorical Exemption (15301-Existing Facility and 15303 - New Construction or Conversion of Small Structures)  
 Declared Emergency (Sec. 21080(b)(3); 15269(a))  Statutory Exemption (\_\_\_\_\_)  
 Emergency Project (Sec. 21080(b)(4); 15269 (b)(c))  Other: \_\_\_\_\_

Reasons why project is exempt: The proposed Class II Kennel includes the permitting of an existing 80-square-foot accessory structure for kennel use; an existing dog playground area which is enclosed by an existing 6-foot-high chain-link fence; an existing patio cover attached to the existing dwelling; and food and water troughs under the patio cover. There are no alterations proposed to the existing 80-square-foot accessory structure, the existing dog playground area including existing patio cover, or the food and water troughs. These will continue to be used as they are currently being used. Therefore, they are covered by the Class 1 exemption. The project also proposes new construction and location of a single, new 480-square-foot accessory structure for kennel uses. The 480-square-foot structure is appurtenant to the existing single family residence. The proposed 480-square-foot accessory structure is approximately the same size as a (no-categories) an explicitly exempt structure under State CEQA Guidelines section 15303(e). It is much smaller in square footage than other uses that are also explicitly exempt under State CEQA Guidelines section 15303(c). Therefore, it is exempt under the Class 3 exemption.

Tim Wheeler, Project Planner 951-955-6060  
County Contact Person Phone Number  
 Signature Urban Regional Planner III Title July 25, 2016 Date

Date Received for Filing and Posting at OPR: \_\_\_\_\_

Please charge deposit fee case#: ZEA42860 ZCFG6232 County Clerk Posting Fee  
FOR COUNTY CLERK'S USE ONLY

FILED / POSTED

County of Riverside  
Peter Aldana  
Assessor-County Clerk-Recorder

E-201601082  
09/28/2016 03:21 PM Fee: \$ 50.00  
Page 1 of 1

Removed: By: Deputy





# RIVERSIDE COUNTY PLANNING DEPARTMENT

Steve Weiss, AICP  
Planning Director

## APPLICATION FOR APPEAL

Appeal of Application Case No(s): Plot Plan No. 25922; Timothy & Elizabeth McVicker

List all concurrent applications

Name of Advisory Agency: Planning Director

Date of the decision or action: September 26, 2016

Appellant's Name: Tenaja Environmental Concerns As E-Mail: tenajaeca@gmail.com

Contact Person: Marty Nicholson E-Mail: mnicholson@tylerbursch.com

Mailing Address: 24910 Las Brisas Road, Suite 110

Murrieta Street CA 92562  
City State ZIP

Daytime Phone No: (951 ) 600-2733 Fax No: (951 ) 600-4996

ADVISORY AGENCY WHOSE ACTION IS BEING APPEALED	HEARING BODY TO WHICH APPEAL IS BEING MADE	APPEAL TO BE FILED WITH
Planning Director	<ul style="list-style-type: none"> <li>• <b>Board of Supervisors</b> for: Temporary Outdoor Events, Substantial Conformance Determination for WECS, Variances, and Fast Track Plot Plans.</li> <li>• <b>Planning Commission</b> for: all other decisions.</li> <li>• <b>County Hearing Officer</b> for: Reasonable Accommodation Request</li> </ul>	<ul style="list-style-type: none"> <li>• <b>Clerk of The Board</b> for: Appeals before the Board of Supervisors.</li> <li>• <b>Planning Department</b> for: Appeals before the Planning Commission and County Hearing Officer.</li> </ul>
Planning Commission	<b>Board of Supervisors</b>	<b>Clerk of the Board of Supervisors</b>

Riverside Office · 4080 Lemon Street, 12th Floor  
P.O. Box 1409, Riverside, California 92502-1409  
(951) 955-3200 · Fax (951) 955-1811

Desert Office · 77-588 El Duna Court, Suite H  
Palm Desert, California 92211  
(760) 863-8277 · Fax (760) 863-7555

"Planning Our Future... Preserving Our Past"

**APPLICATION FOR APPEAL**

TYPE OF CASES BEING APPEALED	FILING DEADLINE
<ul style="list-style-type: none"> <li>• Change of Zone denied by the Planning Commission</li> <li>• Commercial WECS Permit</li> <li>• Conditional Use Permit</li> <li>• Hazardous Waste Facility Siting Permit</li> <li>• Public Use Permit</li> <li>• Variance</li> <li>• Specific Plan denied by the Planning Commission</li> <li>• Substantial Conformance Determination for WECS Permit</li> <li>• Surface Mining and Reclamation Permit</li> </ul>	<p>Within 10 days after the notice of decision appears on the Board of Supervisors Agenda.</p>
<ul style="list-style-type: none"> <li>• Land Division (Tentative Tract Map or Tentative Parcel Map)</li> <li>• Revised Tentative Map</li> <li>• Minor Change to Tentative Map</li> <li>• Extension of Time for Land Division (not vesting map)</li> </ul>	<p>Within 10 days after the notice of decision appears on the Board of Supervisor's Agenda.</p>
<ul style="list-style-type: none"> <li>• Extension of Time for Vesting Tentative Map</li> </ul>	<p>Within 15 days after the notice of decision appears on the Board of Supervisor's agenda.</p>
<ul style="list-style-type: none"> <li>• General Plan or Specific Plan Consistency Determination</li> <li>• Temporary Outdoor Event</li> </ul>	<p>Within 10 days after date of mailing or hand delivery of decision of the Planning Director.</p>
<ul style="list-style-type: none"> <li>• Environmental Impact Report</li> </ul>	<p>Within 10 days of receipt of project sponsor notification of Planning Director determination, or within 7 days after notice of decision by Planning Commission appears on the Board's agenda.</p>
<ul style="list-style-type: none"> <li>• Plot Plan</li> <li>• Temporary Use Permit</li> <li>• Accessory WECS Permit</li> </ul>	<p>Within 10 calendar days after the date of mailing of the decision.</p>
<ul style="list-style-type: none"> <li>• Letter of Substantial Conformance for Specific Plan</li> </ul>	<p>Within 7 days after the notice of decision appears on the Board of Supervisor's agenda.</p>
<ul style="list-style-type: none"> <li>• Revised Permit</li> </ul>	<p>Same appeal deadline as for original permit.</p>
<ul style="list-style-type: none"> <li>• Certificate of Compliance</li> <li>• Tree Removal Permit</li> <li>• Reasonable Accommodation Request</li> </ul>	<p>Within 10 days after the date of the decision by the Planning Director.</p>
<ul style="list-style-type: none"> <li>• Revocation of Variances and Permits</li> </ul>	<p>Within 10 days following the mailing of the notice of revocation by the Director of Building and Safety, or within 10-days after the notice of decision of the Planning Commission appears on the Board of Supervisor's agenda.</p>

**STATE THE REASONS FOR APPEAL.**

Clearly state the basis for the appeal and include any supporting evidence if applicable. If appealing one or more specific conditions of approval, indicate the number of the specific condition(s) being protested. In addition, please include all actions on related cases, which might be affected if the appeal is granted. This will allow all changes to be advertised and modified at the same time. AN APPEAL OF ONE OR MORE CONDITIONS OF APPROVAL SHALL BE DEEMED AS AN APPEAL OF THE ACTION AS A WHOLE,

**APPLICATION FOR APPEAL**

AND THE APPEAL BODY MAY APPROVE OR DENY THE ENTIRE MATTER. AND CHANGE ANY OR ALL OF THE CONDITIONS OF APPROVAL.

The approval of a Class II Kennel Plot Plan is appealed based upon the following.

1. Conditions of approval failed to require clearance from the Tenaja Community Services District which has already denied the application for violations of the property's Covenants, Conditions and Restrictions ("CC&Rs")

2. A Class II Kennel is in direct conflict with the General Plan policies for the Santa Rosa Plateau which should guide land use decisions

3. The Project was incorrectly categorically exempt from CEQA under Section 15301 and 15303. Section 15301 allows for an exemption for "existing uses" and the Class II Kennel is not an existing use.

(SEE ATTACHMENT "A" FOR ADDITIONAL INFORMATION)

Use additional sheets if necessary.

Scott Becker

PRINTED NAME OF APPELLANT

  
SIGNATURE OF APPELLANT

October 7, 2016

DATE

**THE APPEAL FILING PACKAGE MUST CONSIST OF THE FOLLOWING:**

1. One completed and signed Appeal application form.
2. Public Hearing Notice Label Requirements mailing address labels for notification of the appeal hearing.
3. All appropriate filing fees.  
(The Base fee plus other fees specifically for the Department of Building and Safety, Fire Department, Flood Control District and/or Transportation Department conditions, if applicable.)

\* Current Planning LMS Replacement Condensed P.D. Application Forms 295-1013 Appeal Form.docx  
Created: 07/06/2015 Revised: 08/21/2016

Comply with the Public Hearing Notice Label Requirements (Form 295-1051)

**Continued from Page 3 of the Application for Appeal**

3. **CEQA Categorical Exemptions, Section 15301 continued**: While applicants have illegal housed 18 dogs in violation of the County's ordinances which only allows a maximum of 4 dogs as personal pets, illegal use of the property cannot be properly classified as an "existing use" under the California Environmental Quality Act ("CEQA").

Section 15303(e) categorical exemption should not have been applied. Under Section 15303(e), projects may be exempt from CEQA if they are "accessory" projects to residential use. CEQA Guidelines provides examples of garages, swimming pools, carports and fences. A Class II Kennel is not an "accessory" to residential use but a completely new use of the property and therefore, the CEQA Section 15303(e) exemption should not have been applied. Staff's analysis totally disregarded the use being approved and only considered the structure.

Section 15303(c) is also not applicable in this project because under subsection (c) this exemption is only applied to commercial structures. The applicants insist this is "personal use" and therefore subsection (c) should not be applied. However, even if it were to be applied, subsection (c) expressly states that this exemption is NOT to be applied to projects located in "environmentally sensitive area." The project description fails to properly describe the project because it only determines the square footage of the kennel and fails to consider the dog playground area. There is no information on the square footage of the playground which is a part of the project.

Section 15300.2 does apply and has been incorrectly analyzed. If there is a significant effect on the environment, cumulative impact or unusual circumstances, then the above categorical exemptions should not be applied. In this case, the project is located next door to Cleveland National Forest and in close proximity to the Santa Rosa Plateau, both of which are environmentally sensitive areas. None of those agencies were contacted and no biological studies were done to determine the impact of a Class II Kennel to these areas.

This project is not exempt from CEQA and should have been properly studied prior to approval. CEQA issues include noise, public safety, traffic, air quality, hydrology, biological resources and cumulative impacts. See Exhibit "1" and "2" for additionally information.

4. **Noise Issues** – The residents of this area all testified as to problems with noise and the dogs howling. An abundance of information was presented as to the propensity of these animals to howl including neighbor testimony and sound clips of the howling.

5. **Public Safety** – The type of dog proposed for this project has been classified as the fourth most dangerous animal based upon actual deaths and injuries to humans. Testimony from residents provided evidence that the dogs have already escaped from the property and killed chickens and attacked a horse. According to the General Plan, the Santa Rosa Plateau is an equestrian community. Placing a Class II Kennel, with

dogs known to attack full grown cows, into an equestrian community is a public safety issue, especially in light of how far medical facilities are.

7. **Hydrology** – The project site has a blue line stream running through it. While a condition of approval is to fence off the blue line stream, there has been no study or mitigation measures to address fecal and urine matter that will flow into the blue stream when it rains. The hazardous waste may have a significant impact to the water quality downstream from this project but no study was required.

6. **Class II Kennel** – The definition of a Class II Kennel has been incorrectly applied to “personal use” of dogs which circumvents the County’s limitation of four dogs per residential property. Under Ordinance 348.21.40a, a Kennel is defined as “[a]ny building, structure, enclosure or premises whereupon, or within which, five or more dogs, four months of age or older, are kept or maintained.” The definition is lacking any indication whether the use is commercial or personal. The definition for a Class II Kennel states: “[a]ny building, structure, enclosure, or premise, whereupon, or within which, 11 or more dogs, four months of age or older, are kept or maintained. A Class II Kennel shall not include a sentry dog kennel.”

The intent of the County Board of Supervisors in adopting ordinances related to “kennels” is for commercial use; not personal use. This is evidenced by the developmental standards, more specifically the plot plan must show “[f]eatures such as kennels, exercise runs, **areas open to the general public** and noise control measures shall be shown.” (Ord. 348.1845 (D)(3)(d).) A Class II Kennel for personal use should not be applied.

7. **Misrepresentation by Applicants** – The project applicants are running a dog rescue operation under the guise of personal use in order to avoid complying with the County’s requirements for dog rescue operations. One of the limitations of a dog rescue operation is that only four personal dogs may be allowed. The applicants misrepresented the project to Tenaja Community Services District claiming they were building a shed, they have misrepresented the project to the County Planning Department claiming only personal use when they have a website showing the property as their dog rescue operation.

EXHIBIT “1”

**TYLER**  **BURSCH, LLP**  
LAWYERS & ADVISORS

Reply To:  
Riverside County Office:  
24910 Las Brisas Road, Suite 110  
Murrieta, California 92562  
Telephone: 951.600.2733  
Facsimile: 951.600.4996

[www.tylerbursch.com](http://www.tylerbursch.com)

Orange County Office:  
The Logos Building  
3000 West MacArthur Boulevard  
Suite 440  
Santa Ana, California 92704  
Telephone: 949.707.2733

May 23, 2016

VIA ELECTRONIC MAIL  
AND U. S. MAIL

Mr. Timothy Wheeler  
Project Planner  
County of Riverside Planning Department  
4080 Lemon Street, 12th Floor  
Riverside, California 92501  
Email: [twheeler@rcplma.org](mailto:twheeler@rcplma.org)

Re: *Comments on Kennel II Application, Plot Plan #25922*

Dear Mr. Wheeler:

It was nice talking to you on the phone regarding Plot Plan #25922 and I sent a follow-up email requesting notification of any public hearings or actions taken on this matter. With that said, the law firm of Tyler & Bursch has been retained to represent the interests of the neighbors located in and around the project or the area known as the Tenaja Community Service District (hereinafter "TCSD").

To set the legal framework, the TCSD was formed by the residents to improve and maintain streets, bridges, culverts, curbs, gutters, drains, and works incidental thereto. Attachment "A" provides a copy of Restated Ordinance No. 5 which outlines the duties of the TCSD. However, TCSD has other powers including "to act as ex-officio governing body of any owner's association to administer existing Conditions, Covenants and Restrictions (hereinafter "CC&Rs"). Attachment "B" provides information about TCSD and the important paragraph, relating to CC&R enforcement powers, has been outlined. Attachment "C" provides a copy of Ordinance No. 1 which gives TCSD authority to enforce CC&Rs within the TCSD jurisdiction.

Regarding the McVicker's property, the TCSD has authority to enforce CC&Rs that run with the land within its boundaries. I am attaching a copy of the CC&Rs that relate to the McVicker's property. As you can see, pursuant to 3.05 Signs are covered; 3.06 Building Regulations are covered; and 6.03 Prohibited Operations and Uses do not allow for commercial, industrial or manufacturing operations of any kind and commercial ranching of cattle, horses and sheep are prohibited as well. Attachment "D" provides a copy of the CC&Rs, Recorded Document No. 524768 which every purchaser of real property is given constructive notice because the document is recorded. At the bottom of this letter, explains concerns with the County's definitions as they relate to kennels and the CC&Rs.



One of the ongoing issues with the McVicker's property is the lack of supervision of the dogs. Pursuant to Ordinance 348.4818, Section 1845(C) requires "All Class II Kennels and all catteries shall include a single family dwelling to be used by a live-in caretaker. . ." Evidently, the McVickers have someone on the property and we are assuming that person should be supervising the dogs, especially in light of the high numbers of dogs on the property. The McVickers originally placed 14 Siberian Huskies ("Huskies") on their property without a proper permit and now have 18 Huskies. While there is a person on the property, that person was unable to stop the dogs from escaping off the property on two occasions and attacking a horse, donkey and killing several chickens. These incidents are documented in photos and statements of neighbors who were placed in fear of their lives as this "pack of dogs" terrorized the neighborhood without any supervision or ability to notify the owners until they came home. Attachment "E" provides photos of the dogs after attacking neighbors' animals. When a neighbor came to get help from the McVickers, no one was available.

It is important to note the type of breed the McVickers have left in large numbers without proper supervision. Huskies are extremely hard to train, and they have a reputation as escape artists. "Siberian Huskies put the 'H' in 'Houdini'"<sup>1</sup> The article stated Huskies love to howl and are instinctive hunters. "Predatory instincts in the Siberian Husky are strong. While the Siberian is normally gentle and friendly with people and other dogs, owners MUST be aware that small animals in and around the home, such as squirrels, rabbits, birds, guinea pigs, hamsters, and CATS, are potential victims of their strong predatory instinct. They are swift, cunning, and patient in their hunting skills."<sup>2</sup> The article concluded one should not leave small children unattended around these types of dogs. Thus, PP#25922 is requesting to place 25 howling Huskies that have great escape abilities and a propensity to kill small animals at a location where help is not readily available. This is the very type of situation that Ordinance 630 was designed to prevent. You can imagine the fear of neighbors as they watch 5-6, maybe more, pack animals come onto their property without any supervision from the property owner maintaining the Type II Kennel. In one instance, the property owner was imprisoned in her house because of her fear of dogs and the Huskies that had decided to camp out on her property. This type of situation should not be allowed in light of Ordinance 630.

A significant concern of the neighbors is they bought property in the TCSD because it is horse country. Most all of the neighbors own horses and ride horses. It is the equestrian life-style that brought them to the area and encouraged them to invest. That purpose is negatively affected by wolf-like dogs who run in packs and attack horses. The situation creates a significantly dangerous environment for horses and their riders. For this reason alone, the County of Riverside should not approve the Kennel II permit.

To make matters worse, properties in the TCSD back up to a wildlife corridor. Protected species use the land behind the McVicker's home as a corridor. Placing 25 predatory, escape artists,

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<sup>1</sup> Dogtime.com: <http://dogtime.com/dog-breeds/siberian-husky#/slide/1>, last visited May 22, 2016.

<sup>2</sup> Siberian Husky Club of America, Inc., <http://www.shca.org/shcahp2a.htm>, last visited May 22, 2016.

Mr. Timothy Wheeler  
May 23, 2016  
Page 3 of 3

who like to howl, is bound to negatively affect biological resources, if not destroy them altogether. Regarding the howling, the noise has so negatively impacted the neighbors as to become untenable. The odor from 25 dogs urinating and defecating is certain to have significant impacts to biological resources, and the hydrology of the area, as well as general disturbance of residents' quiet enjoyment of their property.

As you know, the County of Riverside only allows one to four dogs on a property under normal circumstances. A person owning five or more dogs must apply for a license to operate a kennel. (Ordinance 6.08.050(A).) The County of Riverside's definition of "kennel" describes the buildings and number of dogs but does not describe the use as accurately as other jurisdictions. For example, the City of Riverside defines "kennel" to mean "commercial kennel" (Ordinance 8.18.010); Kern County defines "kennel" as "the business of boarding . . . dogs or cats." (Ordinance 7.04.150.) The problem is the County of Riverside has placed a limit on the number of dogs that can be on private property and yet, through its failure to accurately define kennels, has allowed private owners to disregard the limitation, exposing their neighbors and the community to nuisance and the expense of litigation. The neighbors request the County of Riverside adopt a more complete definition for "kennel" as commercial or business; not residential use. It is truly not a "residential" use or it would fall under the four or less dog limitation. If "kennel" clearly defined the use, the McVicker proposal would not be allowed under the CC&Rs. We encourage the County of Riverside to close the loophole in its Ordinance that circumvents the four dog restriction on property. We encourage the County of Riverside to adopt the City of Riverside's definition as more appropriate.

Lastly, the TCSD has the job of overseeing road improvements. Road improvements are paid for by the residents through individual assessments. There is an abundance of information on how the roads have deteriorated because they were not designed for increased use. The implementation of any kennel will impact traffic on the roads and should require, at a bare minimum, road improvements paid for by Plot Plan applicants so the neighbors are not subjected to the dust and traffic concerns that will come with Plot Plan entitlements. Moreover, this project must come before the TCSD, not only as governing body for enforcement of the CC&Rs, but also, because of road improvements and traffic conditions exacerbated by these types of projects.

In closing, I am available to discuss these concerns with you more fully. We encourage you to deny the requested permit as inappropriate for the neighborhood and based upon past incidents, this letter may be used in the future as notification to the County of Riverside that a huge safety concern existed prior to any approval project approval. I can be reached at (951) 600-2733 or at [mnicholson@tylerbursch.com](mailto:mnicholson@tylerbursch.com) if you have any questions regarding this letter.

Kind regards,



Marty J. Nicholson, Esq.

Attachments

ATTACHMENT "A"

**RESTATED ORDINANCE NO.5**

**AN ORDINANCE OF THE TENAJA COMMUNITY SERVICES DISTRICT  
REQUIRING OFFERS OF DEDICATION AND THE PREPARATION OF  
CENTERLINE STUDY PROFILE FOR PUBLIC STREETS**

**Section I. RECITATIONS OF FACT.**

A. The Tenaja Community Services District (District) is empowered to improve and maintain streets, bridges, culverts, curbs, gutters, drains, and works incidental thereto subject to the consent of the Board of Supervisors of the County of Riverside.

B. Ordinance No. 460 of the County of Riverside authorizes the District to impose development standards for streets within its boundaries subject to the approval of the Director of Transportation of the County.

C. The Board of the Directors have heretofore adopted Ordinance No. 7 establishing design and construction standards for public streets which are to be imposed on all divisions of land within the District.

D. The Board of Directors has also required persons processing Schedule H and I Parcel Maps to prepare "Street Improvement Plans" for proposed public streets.

E. On June 24, 1993, the County of Riverside adopted a new standard which substitutes a "Centerline Study Profile" for "Street Improvement Plans" as of July 14, 1993.

NOW, THEREFORE, THE BOARD OF DIRECTORS OF THE TENAJA COMMUNITY SERVICES DISTRICT ORDAINS AS FOLLOWS:

**Section II. Restatement of Ordinance No. 5.**

This Ordinance shall constitute a complete restatement of Ordinance No. 5 and those portions of previously adopted Ordinances 4, 5 or 7 which are inconsistent with this restatement are to that extent repealed.

**Section III. CONDITIONS OF APPROVAL FOR SCHEDULES H AND I  
PARCEL MAP DIVISIONS**

A. Prior to the approval by the County of Riverside of any Schedule H or Schedule I Parcel Maps as defined in Sections 10.13 and 10.14 of County Ordinance No.460, the owner or developer shall:

1. Irrevocably offer to dedicate to the Public all of the right of way for any public street(s) required for

the proposed division of land as defined in Ordinance No. 7.

2. Prepare a Centerline Study Profile pursuant to the standards adopted by the County of Riverside on June 24, 1993, and incorporated herein by reference.

B. Such offers of dedication and Study shall be predicated upon:

1. Preserving and maintaining access to public streets;

2. A street center-line profile extending a minimum of 600 feet beyond the boundaries of the proposed division of land;

3. Approval of the vertical and horizontal alignments by the District.

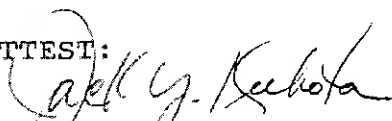
4. The ultimate construction of the street(s) in accordance with standards and specifications set forth in Ordinance No. 7.

**Section IV. Effective Date -- An Urgency Measure.**

This is an urgency measure adopted for the safety and welfare of the District and shall be effective immediately. The nature of the urgency is that applications for Schedules H and I Parcel Maps which are currently awaiting the approval of the County of Riverside must, under the terms of the current Ordinance No. 5, present Street Improvement Plans. Adoption of this ordinance will permit such applicants to process their maps with a Centerline Study Profile.

ADOPTED by the Board of Directors of the Tenaja Community Services District this 2nd day of September, 1993, by unanimous vote of the following Directors present: Palmer, Selzler, Leondis, and Natale.

  
Ken Palmer, President

ATTEST:  
  
Jack Y. Kubota, Secretary

ATTACHMENT “B”



# Tenaja Community Services District

## MENU

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## About the Tenaja CSD

The Tenaja Community Services District ("TCSD") was formed in 1985 pursuant to the Community Services District Act of California ("CSDA"), and encompasses approximately 6,400 acres of spacious rural land in the Santa Rosa Coastal Mountain Range between the City of Murrieta and the Cleveland National Forest.

TCSD receives its powers through the Community Services District Act of the State of California (CSDA) to undertake a number of local agency functions. Currently, however, the Board of Directors is primarily involved in the improvement and maintenance of streets. Since TCSD has no land-use powers, development is subject to the Southwest Area Community Plan of the County of Riverside which requires a minimum of five (5) acres for one (1) residence.

The CSDA authorizes Community Services Districts to exercise a number of municipal powers; the Tenaja Community Services District has, however, been granted authority over the following governmental functions:

1. The collection, treatment, or disposal of sewage, waste, and storm water of the district and its inhabitants.
2. The constructing, opening, widening, extending, straightening, surfacing, and maintaining, in whole or in part, of any street in the district, subject to the consent of the governing body of the county or city in which the improvement is to be made.
3. The construction and improvement of bridges, culverts, curbs, gutters, drains, and works incidental to the purposes specified in subdivision (j), subject to the consent of the governing body of the county or city in which the improvement is to be made.

However, at this time the District only provides the services related to the improvement and maintenance of streets. The District's routine maintenance includes: culvert cleaning, tree trimming, pavement repair, overlays, striping, sign repair and replacement, shoulder replacement, and other related activities.

Under the CSD Act, Community Services Districts are empowered to raise taxes, finance improvement projects through assessment districts created under one or more Improvement Acts sanctioned by State law, and/or to pay for improvements upon the prior approval of the affected electorate through a process defined in Proposition 218. The Board of Directors may, therefore, impose assessments in accordance with its statutory authority or act as facilitator for special assessment districts or an assessment to be created through a Proposition 218 proceeding. As facilitator, the District will coordinate the engineering, development of plans, construction and the ultimate funding.

The CSDA requires the Board of Directors to meet at least quarterly. Currently the regular meetings for the TCSD Board are scheduled for the first Thursdays of each month at the District's office. The Board may, in addition, hold Special meetings or adjourn a regular meeting to another time and place.

The District is governed by a five-member Board of Directors who are residents of the District and elected by residents to four-year terms. The District posts agendas at the District office on the Friday before each month. In addition, agenda packets of each Board meeting are available on request for a nominal annual fee.

The CSDA has empowered the Board to act as ex-officio governing body of any owner's association to administer existing Conditions, Covenants and Restrictions (CC&R). The Board may, in addition appoint any number of advisory committees. Standing committees at this time are the Roads Committee and the Architectural Committee.

The Roads Committee and Architectural Committee meet every Thursday at 8:30 AM to review and discuss applications for easements, road encroachments, street maintenance and Architectural approvals.

**DISCLAIMER: Information on this Website is subject to revision without notice.**

**Copyright 2010 Tenaja Community Services District**



# ATTACHMENT “C”

ORDINANCE NO. 1  
TENAJA COMMUNITY SERVICES DISTRICT

ORDINANCE OF THE TENAJA COMMUNITY SERVICES DISTRICT  
ESTABLISHING A COMMITTEE FOR THE ENFORCEMENT OF CC&R'S  
FOR TRACTS WITHIN DISTRICT BOUNDARIES

THE BOARD OF DIRECTORS OF THE TENAJA COMMUNITY SERVICES DISTRICT HEREBY ORDAINS AS FOLLOWS:

Section 1. Recitals

a. Section 61601.16 of the Government Code empowers the Board of Directors of the Tenaja Community Services District to enforce the covenants, conditions and restrictions adopted for each tract within the boundaries of the District, and to assume the duties of the Architectural Control Committee for each tract within such boundaries, for the purpose of maintaining uniform standards of development.

b. The Board of Directors hereby finds and determines that it is feasible, economically sound, and in the public interest to undertake such duties and responsibilities.

c. A majority of the voters voting on the proposition has voted in favor of the adoption of such additional purpose pursuant to Section 61601 of the Government Code.

d. The Board of Directors desires to establish a committee to act as the Architectural Control Committee for all tracts within the District's boundaries.

Section 2. Creation and Membership. An Architectural Control Committee for the Tenaja Community Services is hereby created, the membership of which shall be comprised of five (5) members, appointed from the following categories:

a. Not less than two (2) members from the residents of the District;

b. Not more than three (3) members from the non-resident property owners of the District.

c. Not more than one (1) member who is neither a resident nor a property owner of the District.

Section 3. Duties. The Architectural Control Committee shall undertake and have the following duties, responsibilities and functions, together with the powers incidental thereto:

a. To review and make recommendations to the Board of Directors concerning the construction, alteration, or repair of structures as more specifically set forth in Declaration of Covenants, Conditions and Restrictions for tracts within the boundaries of the Tenaja Community Services District;

b. To review and recommend to the Board of Directors the enforcement of other provisions of any declaration of conditions, covenants and restrictions; and

c. To undertake such other duties as may be assigned by the Board of Directors.

Section 4. Appointments. Members of the Committee shall be appointed by the affirmative votes of not less than three (3) members of the Board of Directors.

Section 5. Term of Office. Each member of the Committee shall serve for a one (1) year term commencing on the date of appointment and expiring on June 30 of the designated expiration year. Each member of the Committee holding office as of June 1, 1987, shall, however, continue in such office until June 30 of 1988.

Section 6. Vacancies. All vacancies shall be filled by appointment of the Board of Directors by the affirmative votes of not less than three (3) members; where a vacancy shall occur leaving an unexpired term, the subsequent appointment shall be made for the balance of such unexpired term; except for the removal of a Committee member or vacancies due to absences, each Committee member shall continue to serve until his successor is appointed and qualified.

Section 7. Removal from Office. Any member of the Committee may be removed from such office, with or without cause, at any time, by the Board of Directors. No such removal shall, however, be effective unless a motion to that effect made at a regular, adjourned regular, special, or adjourned special meeting is carried by the affirmative votes of not less than three (3) members of the Board of Directors.

Section 8. Absences. Any member of the Committee who is absent without sufficient cause from three (3) successive regular meetings, shall be deemed to have vacated his or her office. An absence due to illness or an unavoidable absence from the District shall be deemed an excused absence of sufficient cause provided notice is given to the secretary of the Committee by such member on or before the day of any regular meeting.

Section 9. Compensation and Expenses. Each member of the Committee shall be entitled to such compensation as may be set by the Board of Directors. Such members shall be entitled to reimbursement for expenses incurred in the performance of their official duties if such expenses are approved in advance by the Board of Directors.

Section 10. Meetings. Except as otherwise expressly provided in this Ordinance, the Committee shall establish the time and place of its regular meetings. All such meetings shall be conducted in accordance with the provisions of the Ralph M. Brown Act. The Committee shall adopt rules for the transaction of its business and shall keep a record of its proceedings, which record shall be open to inspection by any member of the public.

Section 11. Officers. The Committee shall annually elect one of its members as Chairman and one of its members as Vice-Chairman. Such election shall take place at the first regular meeting in July of each year. The General Manager shall designate the secretary of the Committee and shall provide appropriate clerical assistance and shall be responsible for the maintenance of all its permanent records.

Section 12. Expenditures. The Committee shall have no authority to expend or authorize the expenditure of public funds except with the prior express approval of the Board of Directors.

ORDINANCE NO. 1

ADOPTED AT A REGULAR MEETING ON FEBRUARY 7, 1987

Moved by Director Palmer, seconded by Director Metcalf and approved by the following vote.

Ayes: Directors Hoboy, Lippert, Nesbitt, Palmer and Metcalf

Nays: None

Whereupon the President declared that Ordinance No. 1 was adopted, to be effective 30 days from date hereof.

\_\_\_\_\_  
President

ATTEST:

\_\_\_\_\_  
Secretary

ATTACHMENT “D”

MAIL TO:  
RICHARD PIERCE  
20625 SIERRA ELENA,  
TENAJA, CA. 92562

AMENDED

DECLARATION OF  
COVENANTS, CONDITIONS AND RESTRICTIONS  
(PARCELS)

524768  
RECEIVED FOR RECORD  
AT 8:00AM

DEC - 8 1998

Recorded in Official Records  
of Riverside County, California

Recorder

Page 5

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43/14

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THIS AMENDED DECLARATION, made this 25<sup>th</sup> day of November, 1998, by the record owners of certain parcels located within the real property described in more detail herein (individually and collectively hereinafter referred to as "Declarant").

DECLARANTS ARE:

ROBIN OXMAN  
RICHARD PIERCE

ARTICLE I  
RECITALS

1.01 On December 19, 1988 SANTA ROSA RANCHES, a partnership, composed of Temecula Properties, Inc., a California corporation, Temecula Investment Company, a California corporation, and Kaiser Rancho California, Inc., a California corporation, as partners, the developer, established Covenants, Conditions and Restrictions (the "Foundation Declaration") for certain property located in the County of Riverside, State of California, more particularly described therein;

1.02 Declarant constitutes fifty-one percent (51%) or more (based on the number of square feet subject to these restrictions) of certain real property in the County of Riverside, State of California as more particularly described in Exhibit "A" attached hereto (the "Area");

1.03 The Foundation Declaration will expire on December 19, 1998;

1.04 Declarant expressed by ballots distributed to all record owners its desire to amend, extend and replace the Foundation Declaration as set forth herein ( the "Declaration");

1.05 Said ballots were dully distributed, collected, and counted as set forth in the affidavit attached hereto as Exhibit "B"; and

1.06 The Declarant by said ballots appointed Richard Pierce and/or Robin Oxman as attorney-in-fact with full power and authority to execute the Declaration on Declarant's behalf.

NOW, THEREFORE, Declarant hereby declares that the Area and Parcels thereof shall be held, sold and conveyed, subject to the following restrictions, covenants, and conditions.

524768

12 3 98

SECURITY UNION TITLE INS. CO.  
NACIONAL AFFAIRS DIVISION  
5814 Newhall Boulevard, Suite 200  
Santa Fe Springs, CA 90670

RIVERSIDE

ARTICLE II  
GENERAL PROVISIONS

2.01 Establishment of Restrictions.

Declarant, empowered pursuant to Section 7.02 of the Foundation Declaration, hereby declares that each Parcel within the Area is now held and shall thereafter be held, transferred, sold, leased, conveyed and occupied subject to the restrictions herein set forth, each and all of which is and for, and shall inure to, the benefit of and pass with each and every Parcel of the Area and shall apply to and bind the heirs, assignees and successors in interest of Declarant and any owner thereof.

2.02 Purpose of Restrictions.

The purpose of these restrictions is to insure Area use and development of the Area, to protect the owner of each Parcel against improper use and development of surrounding Parcels as will depreciate the value of the Parcels or interfere with the beneficial use and enjoyment of the Parcels, to prevent haphazard and unsightly improvements, and in general to provide adequately for planned use and development of the Area in accordance with the terms hereof.

2.03 Definitions.

- (a) Improvements. "Improvements" shall mean and include buildings, barns, silos, cages, houses, outbuildings, sheds, parking areas, loading areas, fences, walls, poles, signs, streets, alleys and any other structures of any type or kind.
- (b) Declarant. "Declarant" shall mean the undersigned Owners, their heirs, successors and assigns.
- (c) Non-Area Resident. "Non-Area Resident" shall mean a property owner who resides outside the Area but within the Tenaja Community Services District.
- (d) Non-Resident. "Non-Resident" shall mean an Owner who does not own a residence on a Parcel.
- (e) Owner. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Parcel which is a part of the Area, but excluding those having such interest merely as security for the performance of an obligation.
- (f) Parcel. "Parcel" shall mean and refer to, unless otherwise specifically stated herein, any portion of the Area transferred, conveyed, or otherwise transferred to an Owner.
- (g) Resident. "Resident" shall mean an Owner who owns a residence on a Parcel.

ARTICLE III  
REGULATION OF IMPROVEMENTS

3.01 Minimum Setback Line.

- (a) General. No structure of any kind, and no part thereof, shall be placed on any Parcel closer to the property line than herein provided.
- (b) Front Yard Setback. The front setback line is established fifty (50) feet from the front property line.

1111 Central Boulevard, Suite 200  
Santa Fe Springs, CA 90670



(c) Side and Back Yard Setbacks. The setback lines from both the side and back yard property lines are each established at a minimum of thirty-five (35) feet from the said property lines.

(d) Setback Variances. An Owner may request a variance to the setback requirements referenced herein from the Architectural Control Committee established under ARTICLE V hereof by presenting to said committee a plot plan showing that the structures desired to be constructed cannot be reasonably accomplished without modifying said setback requirements.

(e) Retention of Slope Easements. Slope easements at a ratio of 2:1 are reserved for improvement of streets to ultimate standards of the governing agency.

### 3.02 Completion of Construction.

After commencement of construction of any structure or improvements, the work thereon shall be diligently prosecuted, to the end that the structure or improvements shall not remain in a partly finished condition any longer than reasonably necessary for completion thereof.

### 3.03 Fencing.

All Parcels on which animals are kept shall be adequately fenced so as to keep said animals on that Parcel and protect the crops and property of other Parcels.

### 3.04 Excavation.

Exposed openings resulting from any excavation made in connection with construction of improvements shall be backfilled and disturbed ground shall be leveled.

### 3.05 Signs.

(a) No signs, posters or displays ("Signs") shall be shown or displayed on a Parcel, except as follows:

- (1) To identify the name and address of the person or business occupying the premises;
- (2) To identify the offering of the premises for sale or lease; and
- (3) To identify prohibited uses of the Parcel.

(b) Signs, shall conform to the following sizes and standards:

- (1) For Parcels contiguous to a paved road no Sign shall be shown or displayed with a surface area that is greater than 6 square feet; and
- (2) For Parcels that are not contiguous to a paved road, Signs may be shown or displayed with a surface area that is not greater

than 32 square feet for the purpose of promoting the sale or lease of the Parcels.

(3) Road name Identification Signs shall conform to the "rural design" standards adopted by the Teneja Community Services District.

(4) Temporary directional Signs to Parcels may be shown or displayed so long as they are removed by the Owner within 5 calendar days of placement.

**3.06 Building Regulations.**

Any building or structure of whatever type shall be properly maintained. No building or other structure shall be built or erected unless the building or other structure is of a quality usual and customary for that type of building or structure and of good quality and design.

**3.07 Maintenance and Storage.**

(a) All Parcels shall be properly maintained. Rubbish and debris shall be promptly removed.  
(b) No materials, supplies, trailers or equipment including propane tanks, well equipment, trash storage, and inoperable motor vehicles shall be stored in any area on a Parcel except inside a closed building or behind a visual barrier screening such areas from the view of traveled ways, public streets, and other Parcels; except that properly maintained stock trailers may be stored.

**3.08 Preservation of Trees.**

No oak trees now located on any portion of the Area shall be removed, cut down or in any way damaged or destroyed, except for the sole purpose of providing a driveway or building pad for a house or outbuilding.

**3.09 Virus Free Grapes.**

No grape vines shall be planted, stored, or transported across any portion of the Area, unless prior to such planting, storage or transportation across any portion of the Area of any grape vines, the person or persons undertaking such activity shall secure a certificate from the University of California Agricultural Extension Service that such grape vines are "virus-free" and such certificate shall be delivered to the Architectural Control Committee referred to in Article V hereof.

**ARTICLE IV**  
**ENFORCEMENT**

**4.01 Notice of Violation and Inspection**

Subject to the qualifications set forth below in Section 4.02 ( b ) hereof, an Owner or Owners of any Parcel may notify in writing the Architecture Control Committee established in accordance with Section 5.01 (referred to hereinafter in this provision as the "ACC") the conditions that are alleged to be in violation or breach of any restrictions herein contained (the "Condition"), which notice shall include, but may not be limited to, the name and address of the Owner of the Parcel which is the subject of the notice (the "Parcel Owner"), a detailed description of the Condition, and the date and how the complaining Owner or Owners first discovered the Condition (the "Notice"). Within ten (10) days after receipt of the Notice, the ACC shall send to the Parcel Owner a letter which: (a) describes the Condition; and (b) requests the Parcel

Owner to contact the ACC within five (5) days after receipt of the ACC's letter to set a date and time when the ACC shall inspect the Condition; provided, however, said inspection shall occur no later than fifteen (15) days after the date of the Notice. Failure of the Parcel Owner to agree to an inspection shall be deemed to be the express consent by the Parcel Owner to permit the ACC's inspection of the Condition on a date and time reasonably established and communicated to the Parcel Owner by the ACC.

**4.02 Determination of Violation and Abatement.**

(a) If the ACC after inspecting the Condition in accordance with Section 4.01 determines that it is a violation or breach of the restrictions contained herein, then the ACC shall send a written notice to the Parcel Owner of its findings, which notice shall also set forth a date by which the Parcel Owner must provide to the ACC proof acceptable to the ACC that the Parcel Owner has abated and removed the Condition. Any such abatement and removal shall be at the Parcel Owner's sole expense.

(b) Nothing contained in this ARTICLE shall prohibit an Owner, the TCSO and/or the ACC, enforcement authorities, or their representatives, from entering Parcels on which no Owner or Owner's agent or representative is present ("Unoccupied Parcels"), without first obtaining the Owner's permission, to facilitate the abatement and/or removal of nuisances, or conditions or activities prohibited hereunder, which are caused by persons who are trespassing on an Unoccupied Parcel. All Owners hereby authorize such entry for said specific purposes, provided, however, the Owners of Unoccupied Parcels shall thereafter be informed of such action and the outcome thereof.

(c) Any violation or breach of any one or more of the covenants or restrictions contained herein that is not abated and removed as set forth above in Section 4.02- a. may be enjoined or abated by the ACC or complaining Owner or Owners by an action of any court of competent jurisdiction, and damages may also be awarded against such violators. Violations shall be deemed to be a nuisance and remedies or enforcement may include an action at law or in equity to cause the violation to be cured, removed or otherwise corrected.

**4.03 Attorneys' Fees.**

In any legal or equitable proceeding for the enforcement or to restrain the violation of this Declaration or any provision thereof, the losing party or parties shall pay the attorneys' fees of the prevailing party or parties in such amount as may be fixed by the Court in such proceedings. All remedies provided herein or at law or in equity shall be cumulative and not exclusive.

**4.04 Failure to Enforce Not a Waiver of Rights.**

The failure of Declarant or any Owner to enforce any restriction herein contained shall in no event be deemed to be a waiver of the right to do so thereafter nor of the right to enforce any other restrictions.

9814 National C. Settlement 1/1/2010  
Santa Fe Springs, CA 90670

**ARTICLE V**  
**ARCHITECTURAL CONTROL COMMITTEE**

**5.01 Composition of the Committee.**

The Declarant authorizes the Board of Directors for the Tenaja Community Services District (the "TCSD") to establish a five (5) member Architectural Control Committee (hereinafter referred to as the "Committee") for the purposes of maintaining uniform standards of development of the Area as adopted in this Declaration. Subject to the qualification set forth below, the TCSD shall solicit and appoint members of the Committee in accordance with the following composition:

- (a) There shall be two (2) Resident members; provided, however, one such member may be a Non-Area Resident; and
- (b) There shall be three (3) Non-Resident members.

If there are not a sufficient number of candidates for the TCSD to appoint the above member categories, then the TCSD shall appoint members from any category; provided, however, only one member may be a Non-Area Resident.

At such time when forty (40) percent of the Parcels have residences constructed on them, the TCSD shall solicit and appoint members of the Committee in accordance with the following composition:

- (a) There shall be three (3) Resident members; provided, however, one such member may be a Non-Area Resident; and
- (b) There shall be two (2) Non-Resident members.

If there are not a sufficient number of candidates for the TCSD to appoint the above member categories, then the TCSD shall appoint members from any category; provided, however, only one member may be a Non-Area Resident.

In the event of death or resignation of any member of the Committee, the TCSD shall designate a successor in accordance with above referenced member composition. The members of the Committee shall not be entitled to any compensation for services performed pursuant to this covenant.

**5.02 Committee Approval.**

The Committee's approval or disapproval as required in these covenants shall be in writing. In the event the Committee fails to approve or disapprove plans and specifications within thirty (30) days after such plans and specifications have been submitted to it, approval will not be required and such plans and specifications shall be deemed approved as submitted.

No building or other improvement shall be erected, placed or altered on any parcel nor County approval for such activity sought, until the designs and specifications and a plan showing the location of the improvement on the Parcel have been approved by the Committee as to quality of workmanship and materials.

5.03 Liability of Committee.

Neither Declarant, the members of the Committee nor its representative, their successors or assigns, shall be liable in damages to anyone submitting plans to them for approval, or to any Owner or lessee of any Parcel affected by this Declaration, by reason of mistake in judgment, negligence or nonfeasance arising out of or in connection with the approval or disapproval or failure to approve any plans submitted. Every person who submits plans to the Committee for approval agrees, by submission of such plans, and every Owner or lessee of any Parcel within the Area agrees, by acquiring title thereto or interest therein, that he will not bring any action or suit against Declarant, the members of the Committee, or its representative, to recover any such damages.

ARTICLE VI  
REGULATION OF OPERATIONS AND USES

6.01 Permitted Operations and Uses.

Unless otherwise specifically prohibited herein, any agricultural operation and use will be permitted if it is performed or carried out so as not to cause or produce a nuisance to adjacent parcels. Nuisance shall be defined in accordance with the County of Riverside ordinances and regulations.

6.02 Prohibited Operations and Uses.

No commercial, industrial or manufacturing operations of any kind shall be permitted or conducted on the Area; except for the following:

- (a) Professional, administrative, and instructional occupations, without external evidence thereof which are incidental to the primary buildings on the Parcel;
- (b) Commercial ranching of cattle, horses and sheep; and
- (c) Commercial farming, excluding commercial nurseries.

6.03 Prohibited Residential Uses.

Owners shall not use mobile homes, motor homes or trailers for residential purposes, except that trailers may be used as a residence by the Owner during the Owner's residence construction for no more than 18 months, unless otherwise extended by the Committee

6.04 Additional Prohibited Uses.

No person shall discharge firearms on any Parcel except to protect life and/or property, and no person shall dump trash, or take-off or land parasails, hang gliders or ultralight aircraft or other similar flying craft on any Parcel.

**ARTICLE VII**  
**TERM, TERMINATION, MODIFICATION**  
**AND ASSIGNMENTS OF DECLARANT'S RIGHTS AND DUTIES**

**7.01 Term.**

This Declaration, every provision hereof and every covenant, condition and restriction contained herein shall continue in full force and effect for a period of ten (10) years from the date hereof, after which time this Declaration shall be automatically extended for successive periods of ten (10) years, unless this Declaration, or any covenant, condition or restriction contained herein, is terminated, extended, modified or amended in accordance with Section 7.02 hereof.

**7.02 Termination and Modification.**

This Declaration, or any provisions hereof, or any covenant, condition or restriction contained herein, may be terminated, extended, modified or amended, as to the whole of the Area or any portion thereof, with the written consent of the owners of fifty-one per cent (51%) of the Area based on the number of square feet subject to these restrictions; No such termination, extension, modification or amendment shall be effective until a proper instrument in writing has been executed and acknowledged and recorded in the office of the Recorder of Riverside County, California.

**7.03 Assignment of Declarant's Rights and Duties.**

Any and all of the rights, powers and reservations of Declarant herein contained may be assigned to any person, corporation or association which will assume the duties of Declarant pertaining to the particular rights, powers and reservations assigned, and upon any such person, corporation or association's evidencing its consent in writing to accept such assignment and assume such duties, he or it shall, to the extent of such assignment, have the same rights and powers and be subject to the same obligations and duties as are given to and assumed by Declarant herein.

**ARTICLE VIII**  
**MISCELLANEOUS PROVISIONS**

**8.01 Constructive Notice and Acceptance.**

Every person who now or hereafter owns or acquires any right, title or interest in or to any portion of the Area is and shall be conclusively deemed to have consented and agreed to every covenant, condition and restriction contained herein, whether or not any reference to this Declaration is contained in the instrument by which such person acquires an interest in the Area.

**8.02 Rights of Mortgagees.**

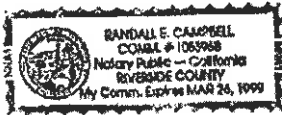
All restrictions and other provisions herein contained shall be deemed subject and subordinate to all mortgages and deeds of trust now or hereafter executed on and subject to these restrictions, and none of said restrictions shall supersede or in any way reduce the security or affect the validity of any such mortgage or deed of trust; provided, however, that if any portion of the Area is sold under a foreclosure of any

REPRODUCTION OF A PUBLIC RECORD  
9214 Normal St., Fontana, CA 92335  
Area For Service, CA 92370

**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

State of CALIFORNIA  
 County of RIVERSIDE  
 On NOVEMBER 25<sup>th</sup> 1998 before me, RANDALL E. CAMPBELL, Notary Public  
Name and Title of Officer (e.g., "Jane Doe, Notary Public")  
 personally appeared ROBIN OXMAN AND RICHARD PIERCE  
Name(s) of Signer(s)

personally known to me - OR -  approved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



WITNESS my hand and official seal.

Randall E. Campbell  
Signature of Notary Public

**OPTIONAL**

*Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.*

**Description of Attached Document**

Title or Type of Document: DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

Document Date: 11/25/98 Number of Pages: (9)

Signer(s) Other Than Named Above: NONE

**Capacity(ies) Claimed by Signer(s)**

Signer's Name: ROBIN OXMAN

- Individual
- Corporate Officer
- Title(s): \_\_\_\_\_
- Partner —  Limited  General
- Attorney-in-Fact
- Trustee
- Guardian or Conservator
- Other: \_\_\_\_\_

Signer is Representing:  
DECLARANTS



Signer's Name: RICHARD PIERCE

- Individual
- Corporate Officer
- Title(s): \_\_\_\_\_
- Partner —  Limited  General
- Attorney-in-Fact
- Trustee
- Guardian or Conservator
- Other: \_\_\_\_\_

Signer is Representing:  
DECLARANTS



Notary Public in the State of California  
 Santa Fe Springs, CA 90670

mortgage or under the provisions of any deed of trust, any purchaser at such sale, and his successors and assigns, shall hold any and all Area so purchased subject to all of the restrictions and other provisions of this Declaration.

**8.03 Mutuality, Reciprocity, Runs with Land.**

All restrictions, covenants, conditions and agreements contained herein are made for the direct, mutual and reciprocal benefit of each and every part and Parcel of the Area; shall create mutual, equitable servitudes upon each Parcel in favor of every other parcel; shall create reciprocal rights and obligations between the respective Owners of all Parcels and privity of contract and estate between all grantees of said Parcels, their heirs, successors and assigns; and shall, as to the Owner of each Parcel, their heirs, successors and assigns, operate as covenants running with the land, for the benefit of all other Parcels.

**8.04 Paragraph Headings.**

Paragraph headings, where used herein, are inserted for convenience only and are not intended to be a part of this Declaration or in any way to define, limit or describe the scope and intent of the particular provisions to which they refer.

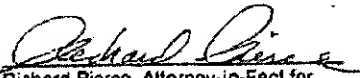
**8.05 Effect of Invalidation.**

If any provision of this Declaration is held to be invalid by any court, the invalidity of such provision shall not affect the validity of the remaining provisions hereof.

IN WITNESS WHEREOF, the Declarant, and each of them, by the undersigned attorney-in-fact, has executed this Declaration on the date first hereinabove written.



Robin Oxman, Attorney-in-Fact  
for the Declarant



Richard Pierce, Attorney-in-Fact  
for the Declarant

5814 Newport Boulevard, Suite 200  
Santa Fe Springs, CA 90670



EXHIBIT 'A'  
BOUNDARY DESCRIPTION

That portion of the Rancho Santa Rosa, in the County of Riverside, State of California, which Rancho was granted by the Government of the United States to Juan Moreno by patent dated October 10, 1872, and recorded January 8, 1873, in the office of the County Recorder of the County of San Diego, State of California, described as follows:

Beginning at Corner No. 4 of the Rancho Santa Rosa, thence S68°21'03"E 15429.80 feet along the southerly line of said Rancho;

thence leaving said southerly line N13°53'44"E 2491.75 feet;

thence N39°32'17"E 750.00 feet;

thence N32°32'51"E 762.59 feet;

thence N47°39'03"E 657.66 feet;

thence N39°32'17"E 1927.83 feet;

thence N58°04'58"E 4401.43 feet;

thence N32°03'43"E 1288.53 feet;

thence S89°33'10"E 2562.08 feet;

thence N01°57'51"W 1485.15 feet;

thence S80°17'44"W 559.10 feet to the beginning of a curve concave northerly having a radius of 1400.00 feet;

thence westerly 245.91 feet along said curve through a central angle of 10°03'30";

thence N00°21'34"E 436.05 feet to the beginning of a curve concave westerly having a radius of 1400.00 feet;

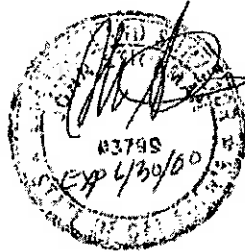
thence northerly 332.31 feet along said curve through a central angle of 13°38'00";

thence N13°14'28"W 2624.37 feet to the beginning of a curve concave easterly having a radius of 2400.00 feet;

thence northerly 851.03 feet along said curve through a central angle of 20°19'01";

thence N07°04'35"E 691.37 feet to the beginning of a curve concave westerly having a radius of 1200.00 feet;

thence northerly 598.76 feet along said curve through a central angle of 26°35'20";



3814 Norwalk Boulevard, Suite 200  
San Jose, CA 95128

EXHIBIT "A"

thence N21°30'45"W 515.21 feet to the beginning of a curve concave easterly having a radius of 1200.00 feet;

thence northerly 277.98 feet along said curve through a central angle of 13°16'21";

thence N35°29'38"E 432.60 feet;

thence N51°34'35"W 207.06 feet to the beginning of a curve concave southerly having a radius of 500.00 feet;

thence westerly 445.97 feet along said curve through a central angle of 51°06'14";

thence S77°18'11"W 273.86 feet to the beginning of a curve concave northerly having a radius of 450.00 feet;

thence westerly 538.94 feet along said curve through a central angle of 68°37'10";

thence N34°03'39"W 166.30 feet to the beginning of a curve concave southerly having a radius of 300.00 feet;

thence westerly 544.28 feet along said curve through a central angle of 103°57'07";

thence S41°58'14"W 172.68 feet to the beginning of a curve concave northerly having a radius of 450.00 feet;

thence westerly 637.43 feet along said curve through a central angle of 81°08'35";

thence N56°51'11"W 33.06 feet to the beginning of a curve concave southerly having a radius of 450.00 feet;

thence westerly 319.39 feet along said curve through a central angle of 40°38'57";

thence S82°28'52"W 315.51 feet;

thence S86°18'45"W 713.26 feet to the beginning of a non-tangent curve concave southeasterly having a radius of 10000.00 feet, a radial line to said beginning bears N56°28'47"W;

thence southwesterly 3688.27 feet along said curve through a central angle of 21°07'88";

thence S12°50'06"W 80.92 feet to the beginning of a non-tangent curve concave southerly having a radius of 5250.00 feet, a radial line to said beginning bears N12°50'06"E;

thence westerly 943.43 feet along said curve through a central angle of 10°17'46";

(2)

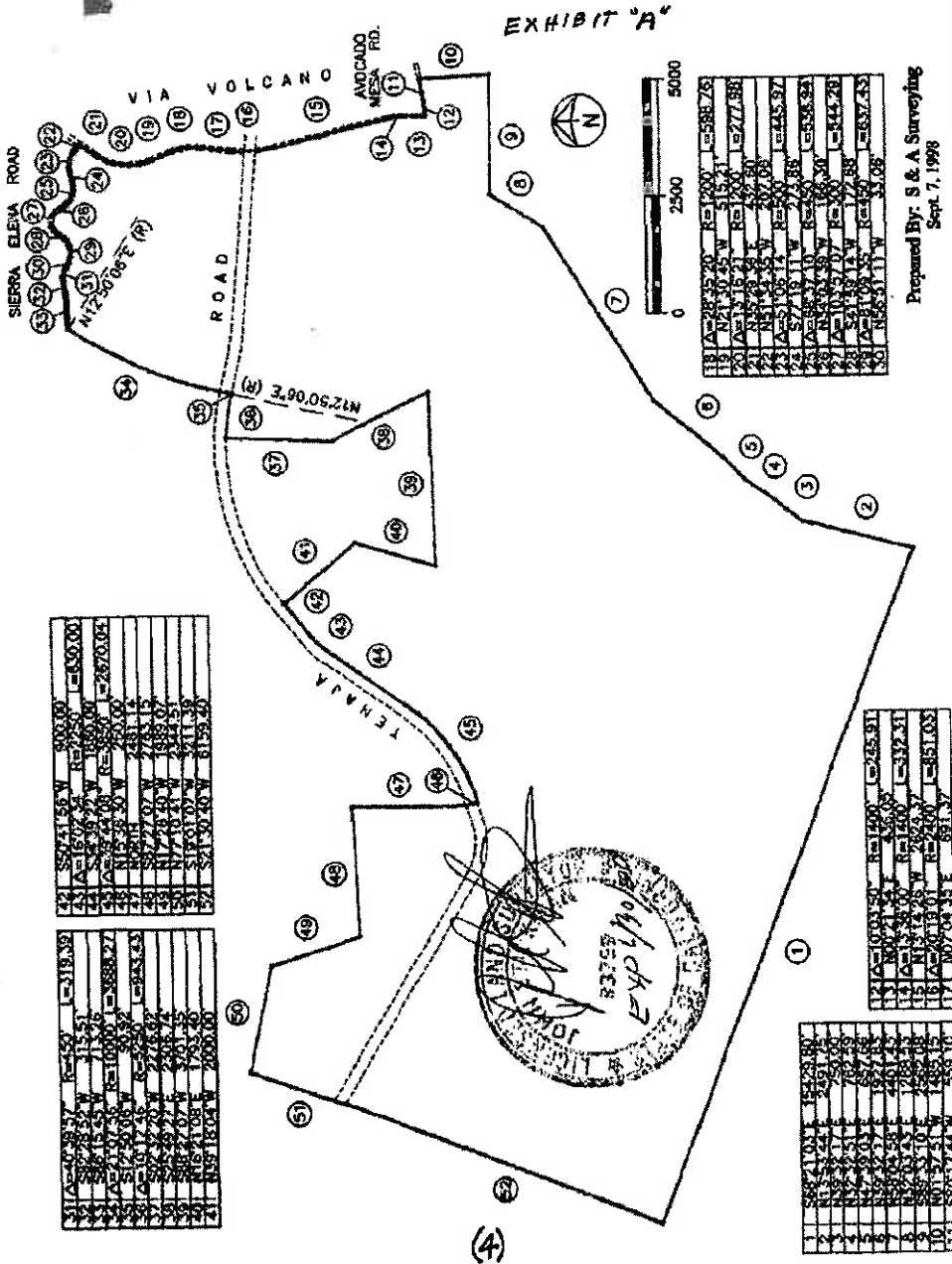
1:10,000 Original Survey Date: 1/26/2000  
Scale: Per Survey, CA 90070

EXHIBIT "A"

thence S02°32'20"W 2276.62 feet;  
thence S25°48'27"E 2308.74 feet;  
thence S88°27'07"W 3701.35 feet;  
thence N18°21'08"E 1793.40 feet;  
thence N39°18'04"W 2000.00 feet;  
thence S50°41'56"W 900.00 feet to the beginning of a curve concave  
southeasterly having a radius of 2250.00 feet;  
thence southwesterly 830.00 feet along said curve through a central angle  
of 18°02'34";  
thence S34°39'22"W 1860.00 feet to the beginning of a curve concave  
northwesterly having a radius of 3850.00 feet;  
thence southwesterly 2670.04 feet along said curve through a central  
angle of 39°44'08";  
thence N15°36'30"W 250.00 feet;  
thence North 2461.14 feet;  
thence S87°27'07"W 2763.15 feet;  
thence N17°26'40"W 1989.07 feet;  
thence N77°10'41"W 2344.51 feet to the westerly line of said Rancho  
Santa Rosa;  
thence S19°01'07"W 3211.39 feet along said westerly line;  
thence S21°30'40"W 6159.40 feet along said westerly line to the Point  
of Beginning.

(3)

9314 Nevada Boulevard, Suite 300  
Santa Fe Springs, CA 90670



9814 (revised) 1: cont. sheet 1 of 200  
Santa Fe Springs, CA 90670

EXHIBIT "B"

AFFIDAVIT

The undersigned, being of lawful age, do hereby depose and say under oath as follows:

1. We, individually and collectively, duly distributed, received and counted ballots (the "Ballots") to approve or disapprove the proposed extension, amendments, and replacement of the Covenants, Conditions and Restrictions; Riverside County Recordation No. 126373 ("Amended CC&Rs"); *RECORDED ON 12/30/68*
2. We counted the Ballots on November 25, 1998, which counting resulted in the record owners of fifty-one percent (51%) or more of the Area described in the Amended CC&Rs (based on the number of square feet subject thereto) voting to approve the Amended CC&Rs.
3. We have taken actions to preserve and maintain all of the Ballots counted by us at the offices of Tenaja Community Services District, 32395-B Clinton Keith Road, Suite 10, Wildomar, CA 92596.

Executed this 25<sup>th</sup> day of November, 1998 at Wildomar, California.

*Robin Oxman*  
Robin Oxman

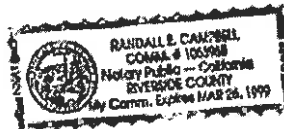
*Richard Pierce*  
Richard Pierce

*Paul Hoboy*  
Paul Hoboy

State of California )  
County of Riverside )

Subscribed and sworn to before me  
this 25<sup>th</sup> day of ~~NOVEMBER~~, 1998

*Randall Campbell*  
Notary Public  
My Commission Expires: 3-26-99



Notary Public - California  
State of California  
Santa Fe Springs, CA 90670

ATTACHMENT “E”







# EXHIBIT “2”

Reply To:  
Riverside County Office:  
24910 Las Brisas Road, Suite 110  
Murrieta, California 92562  
Telephone: 951.600.2733  
Facsimile: 951.600.4996

[www.tylerbursch.com](http://www.tylerbursch.com)

Orange County Office:  
The Logos Building  
3000 West MacArthur Boulevard  
Suite 440  
Santa Ana, California 92704  
Telephone: 949.707.2733

September 26, 2016

VIA ELECTRONIC  
AND U.S. MAIL &

Mr. Steven Weiss  
Planning Director  
County of Riverside Planning Department  
4080 Lemon Street, 12th Floor  
Riverside, California 92501  
Email: [sweiss@rctlma.org](mailto:sweiss@rctlma.org)

Re: *Comments in Opposition to Plot Plan 25922, the Class II Kennel Project,  
Applicants Timothy & Elizabeth McVicker*

Dear Mr. Weiss:

On behalf of the Tenaja Environmental Concerns Association, I submit these comments in opposition to the Class II Kennel, Plot Plan No. 25922 (the "Project") located in Santa Rosa Plateau.

## **I. CEQA Comments**

It has been determined that the Project is exempt from CEQA under two categorical exemptions (Section 15301 and Section 15303). While on the surface those two categorical exemptions appear to apply, in a closer analysis the exemptions do not apply to this project for the following reasons:

### **A. Section 15301 "Existing Facilities" Exemption**

Under Section 15301, the CEQA Guidelines ("Guidelines") state "[t]he key consideration is whether the project involves negligible or no expansion of an *existing use*." The Guidelines assist the determination by offering up examples of where the "existing facilities" exemption has been applied. The exemption has been applied in alterations involving interior partitions, plumbing and electrical conveyances; existing facilities of publicly owned utilities; existing highways, streets, sidewalks, gutters, bicycle and pedestrian trails; restoration or rehabilitation of damaged structures to meet public health and safety; and additions to existing structures provided the addition will not result in an increase of more than: 50 percent of the floor area of the structures; or 10,000 square feet if (a) the project is in an area where all public services are available, and (b) the area in which the project is located is not environmentally sensitive. The Guidelines cite many other examples that deal with maintenance, minor repairs, demolition, conversions to office use, medical waste generator and family day care.

Of all of these examples, the only example that comes close to qualifying the project for this exemption is “additions to existing structures provided the addition will not result in an increase of more than: 50 percent of the floor area of the structures; or 10,000 square feet if (a) the project is in an area where all public services are available, and (b) the area in which the project is located is located is not environmentally sensitive.” The problem is “addition to existing structures” is not proposed by the Project. Moreover, if the Project were properly described by not only describing the kennel but the dog play area also being installed, the project would fall under the 10,000 square foot requirement. It is clear that this exemption is not available to projects that are located in environmentally sensitive areas, such as the Santa Rosa Plateau.

There are few areas within the County of Riverside that are more environmentally sensitive than the Tenaja Valley given its adjacent to Cleveland National Forest and in close proximity to the Santa Rosa Preserve. There is no “existing use” because the property has never been granted a Class II Kennel permit. Finally, the Project does not propose an addition to existing facilities. Given all of these factors and the examples provided by the Guidelines, a Section 15301 categorical exemption is not appropriate for this Project.

#### **B. Section 15303 “New Construction of Small Structures”**

Under Section 15303, the CEQA Guidelines (“Guidelines”) states “Class 3 consists of construction and location of limited numbers of new, small facilities or structures.” While this may appear to be exactly the situation for the Project, the Guidelines provide the examples such as: single-family residence in a residential zone; a duplex or multi-family residential structure; a store, motel, office, restaurant, or similar structure if the surrounding area is not environmentally sensitive; water main, sewage, electrical, gas or other utility; or accessory structures such as garages, carports, patios, swimming pools and fences.

The Project is not proposing adding residential use on top of residential use. (Section 15303(a) and (b).) Nor can a Class II Kennel be considered “accessory”<sup>1</sup> structure to the existing residential use. (Id. at (e).) The reasoning is few, if any, accessory structures require a Plot Plan, live-in caretaker and must comply with a rather long list of conditions outlined in Ordinance 630. Section 15303(c) does not apply because “Subsection (c) further limits the use of this exemption to those commercial projects which have available all necessary public services and facilities, and which **are not located in an environmentally sensitive area.**” (Cal. Resources Agency, California Environmental Resources Evaluation System, CEQA Guidelines; *Fairbank v. City of Mill Valley* (1999) 75 Cal.App.4th 1243, 1255 [89 Cal.Rptr.2d 233, 240], as modified on denial of reh'g (Oct. 29, 1999).) (Emphasis added.)

Moreover, the Guidelines also establish exceptions to the exemptions. (Guidelines, § 15300.2.) “Even if a project falls within the description of one of the exempt classes, it may nonetheless have a significant effect on the environment based on factors such as location,

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<sup>1</sup> “Accessory” defined as an addition, decoration, attachment or add-on to the existing residential dwelling.

cumulative impact, or unusual circumstances.” (*Save Our Carmel River v. Monterey Peninsula Water Management Dist.* (2006) 141 Cal.App.4th 677, 689, 46 Cal.Rptr.3d 387 (*Save Our Carmel River* ).)

The Project is located between two of the most environmentally sensitive areas in the County of Riverside, if not in the entire State of California. The Project site is identified in the Multi-Species Habitat Conservation Program of the County of Riverside. Therefore, location is definitely a factor. Additionally, the County’s General Plan identifies the Santa Rosa Plateau as being a “unique” community due to its rural and environmental considerations justifying a finding of “unusual circumstances.” If the project is located in a “particularly sensitive environment” an ordinary insignificant impact may become significant. (Guidelines § 15300.2.) Under Section 15300.2 “an activity which would otherwise be categorically exempt is not exempt if there are ‘unusual circumstances’ which create a ‘reasonable possibility’ that the activity will have a significant effect on the environment.” (*Fairbank, supra*, 75 Cal.App.4th at 1259.) In summary, “[a] categorical exemption shall not be used for an activity where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances.” (*San Francisco Beautiful v. City and County of San Francisco* (2014) 226 Cal.App.4th 1012, 1020.)

As you already know and the proponent has testified, the Project is one lot away from the Cleveland National Forest. In March 2011, the Pacific Southwest Regions of the US Forest Service announced its Ecological Restoration Implementation Plan for the Cleveland National Forest. In discussing the Project with land use staff at the Cleveland National Forest, they were unaware of the Project. Remember, the *SPAWN* court set aside the county’s categorical exemption because a project was adjacent to a protected anadromous fish stream and within a stream conservation area. (*Citizens for Environmental Responsibility, supra*, 242 Cal.App.4th at 569.) More importantly, if mitigation measures are proposed, such as when dogs are allowed outside, it precludes the County from an exemption finding. (*Id.* at 568.) For these reasons, the categorical exemptions should not apply.

## **II. General Plan Comments**

The Project is located in the Southwest Area of the General Plan and land use decisions are guided by the Santa Rosa Plateau/De Luz Policy Area (hereinafter “Santa Rosa Plateau Policy Area”). The General Plan states that “the unique Santa Rosa Ecological Reserve is located in here [the Santa Rosa Plateau Policy Area] and . . . plays a *significant role in setting the character for the area.*” (Emphasis added.) The General Plan explains that the Santa Rosa Plateau is a unique community with ranch style estates which have an equestrian focus. “Extensive citrus groves and avocado orchards complete the sense of quiet and remoteness so predominant here.” The residents of the Tenaja Valley have already informed you of their love for horses and for the quiet enjoyment of their properties that they have come to treasure prior to the intrusion of the McVickers’ dogs.

The General Plan, Santa Rosa Plateau Policy Area land use concepts discusses “The Santa Rosa Plateau forms a high valley along the west side of the Southwest Planning Area and provides still another unique environment devoted to rural estates, groves and *natural habitat.*” (Emphasis added.) The General Plan further explains that “[t]he Santa Rosa Ecological Reserve and the

Cleveland National Forest are designated for open space uses to reflect the rich and *significant habitat these areas provide.*" (Emphasis added.) In looking at the Habitat Map, provided in the General Plan, the area darkest green (Habitat Conservation) is placed where the Project is located.

Statements from the Santa Rosa Plateau Policy Area include:

- Maintaining the rural and *natural character* of the area;
- *Address long term stability* of the Santa Rosa Plateau Ecological Reserve;
- In order to maintain the Plateau's attributes, *future development must be designed in accordance with the area's rural character*;
- *Limit impacts to the ecological preserve.* (Emphasis added.)

Moreover, since the Project site is in a Habitat Conservation area, the Multi-Species Habitat Conservation Plan Policies should apply including:

- *Provide stepping-stone habitat linkages for the California gnatcatcher* as well as other species through the preservation of *land from the Santa Rosa Plateau.*
- *Conserve the Tenaja corridor*, which promotes large mammal movement between the Cleveland National Forest and the Santa Rosa Plateau. (Emphasis added.)

These General Plan policies should direct the land use decisions in the Tenaja Valley, especially on the Project site because of its Habitat Conservation designation. Having served in the field of Parks and Recreation for over twenty-seven years, I can tell you that placing 25 non-native species in the center of the Tenaja corridor will have an impact on animal movement. The Project is one property away from the Cleveland National Forest and directly on the way to the Santa Rosa Plateau Reserve. It should be noted that animals have greater abilities to sense the presence of other animals and the scent of 18-25 dogs will affect the native wildlife inhabitants. You already know how it has negatively affected the human population.

Moreover, it is the type of dog that is of great concern. I can speak from experience since my son moved back home with his Siberian husky, I have personal experience regarding the breed. My home backs up to a densely vegetated hillside that is inhabited by a variety of wild animals including possums, rabbits, birds, rodents, etc. It only took one week before my son's Husky was no longer allowed in my backyard because the dog had killed so many of the animals. Just last week, my daughter informed me that while she was walking the dog on a leash on a horse trail, without warning the dog leaped from the trail towards a branch on a tree, grabbed a possum and shook it to death before she could take any action. When the experts state that Siberian Huskies have a high prey instinct, they most certainly mean it.

There is a reason why so many of these dogs end up in shelters and the biggest one is the howling. I have always been a dog lover until my son's dog came along. I do not like the breed because from the time I drive into the garage the dog starts "talking". It's more like nagging and the

Mr. Steve Weiss  
September 26, 2016  
Page 5 of 5

dog will not stop. At the last public hearing we had three clips so you could understand the noise concern. Due to technical difficulties, we were unable to play them. If you google husky howling, literally hundreds of clips will pop up because every owner of a Siberian husky experiences the howling. This breed is one of the noisiest dogs I have ever dealt with.

A Class II Kennel full of howling Siberian Huskies will significantly impact the Cleveland National Forest-Santa Rosa Plateau wildlife corridor. It doesn't take too much thought to realize if you were a wild animal and heard or smelled a pack of dogs, you would avoid the area. You heard from Project proponent that a 60lb husky attacked a full size cow. Additionally, since the California gnatcatcher's habitat has shrunk to almost disappearing, this Project is likely to harm this endangered species as well.

Finally, the Cleveland National Forest, the Santa Rosa Ecological Reserve, Fish & Game, Sierra Club and many other agencies are partnering in an attempt to restore the wildlife that use to flourish in this area. The Project is simply not logically located in this sensitive environment because it will negatively impact the efforts being made to restore the wildlife. It has and will continue to ruin the "quiet remoteness" that the General Plan identified.

If the General Plan Policies are to guide land use development, then this Project should be denied as totally incompatible with the long term stability of the Santa Rosa Plateau Ecological Reserve, the Cleveland National Forest's 2011 Ecological Restoration Plan, and the County's Santa Rosa Plateau Policies. That is why the residents of the Tenaja Valley respectfully request that you deny the Project.

Kind regards,



Marty J. Nicholson, Esq.

MJN:jal

ASMT: 932040018, APN: 932040018  
MARY SCHMIDT, ETAL  
17020 CALLE DE LINA  
MURRIETA, CA 92562

ASMT: 932050035, APN: 932050035  
CATHERIN BACA, ETAL  
43200 TENAJA RD  
MURRIETA, CA 92562

ASMT: 932020003, APN: 932020003  
TIFFANY NELSON MCDANIEL, ETAL  
43017 TENAJA RD  
MURRIETA, CA 92562

ASMT: 932040019, APN: 932040019  
KENNETH MISKAM  
PO BOX 1077  
MURRIETA, CA 92564

ASMT: 932050036, APN: 932050036  
SHELLEY TAYLOR, ETAL  
17540 EQUESTRE CT  
MURRIETA, CA 92562

ASMT: 932020019, APN: 932020019  
FRANK MINNAMEYER, ETAL  
17402 VIA ABRIL  
MURRIETA, CA 92562

ASMT: 932040021, APN: 932040021  
LEYDA BEQUER, ETAL  
4980 HIDDEN GLEN LN  
YORBA LINDA, CA 92887

ASMT: 932050037, APN: 932050037  
FRANCES JOHNSON  
17545 EQUESTRE CT  
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ASMT: 932020022, APN: 932020022  
LUIS VILLATORO, ETAL  
14761 ATHEL AVE  
IRVINE, CA 92606

ASMT: 932050010, APN: 932050010  
PATRICIA CONTRERAS, ETAL  
17249 MARIPOSA AVE  
RIVERSIDE, CA 92504

ASMT: 932050040, APN: 932050040  
JOHN CARTER, ETAL  
PMB 289  
23905 CLINTON KEITH RD  
MURRIETA, CA 92595

ASMT: 932020023, APN: 932020023  
SARINA BECKER, ETAL  
17250 VIA ABRIL  
MURRIETA, CA 92562

ASMT: 932050031, APN: 932050031  
KATHLEEN WORTHLEY, ETAL  
43455 CALLE COLLADO  
MURRIETA, CA 92562

ASMT: 932050041, APN: 932050041  
DOMENICK ALDELLIZI  
PO BOX 752  
MURRIETA, CA 92564

ASMT: 932020024, APN: 932020024  
TAMARA MCVICKER, ETAL  
17370 VIA ABRIL  
MURRIETA, CA 92562

ASMT: 932050032, APN: 932050032  
ROSANNA NOVAK, ETAL  
30831 AVENIDA BUENA SUERTE  
TEMECULA, CA 92591

ASMT: 932050043, APN: 932050043  
JO ANN COKER, ETAL  
43930 ANITRA ST  
MURRIETA, CA 92562

ASMT: 932020025, APN: 932020025  
WESTERN RIVERSIDE CO REGIONAL CON AU  
3525 14TH ST  
RIVERSIDE, CA 92501

ASMT: 932050034, APN: 932050034  
ALICIA BAUSLEY, ETAL  
17520 EQUESTRE CT  
MURRIETA, CA 92562

ASMT: 932050044, APN: 932050044  
SHUKUEI HAYASHI, ETAL  
32452 AZORES RD  
DANA POINT, CA 92629

ASMT: 932040013, APN: 932040013  
CATHERIN KAZMARK, ETAL  
43905 ANITRA ST.  
MURRIETA, CA 92562

ASMT: 932020027, APN: 932020027  
PETER MCGOWEN  
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MURRIETA, CA 92562

ASMT: 932040010, APN: 932040010  
PHYLLIS SUNINS, ETAL  
PO BOX 907  
MURRIETA, CA 92564

ASMT: 932040015, APN: 932040015  
TERI LAIDLAW, ETAL  
29642 NOVACELLA  
LAGUNA NIGUEL, CA 92677

ASMT: 932020014, APN: 932020014  
GAME WILDLIFE CONSERV, ETAL  
C/O BILL GALLUP  
1807 13TH ST  
SACRAMENTO, CA 95814

ASMT: 932030027, APN: 932030027  
LUIGI VERNOLA  
12218 BOMBADIER ST  
NORWALK, CA 90650

ASMT: 932040011, APN: 932040011  
NANCY FLEMING, ETAL  
43870 ANITRA ST.  
MURRIETA, CA 92562

ASMT: 932020045, APN: 932020045  
WESTERN RIVERSIDE COUNTY REG CON  
AUT  
C/O ECONOMIC DEV AGENCY  
3043 10TH ST STE 500  
RIVERSIDE, CA 92501

ASMT: 932030022, APN: 932030022  
T CLIPPINGER, ETAL  
20670 AVD DE ARBOLES  
MURRIETA, CA 92562

ASMT: 932020026, APN: 932020026  
WESTERN RIVERSIDE CO REG CONSERV AUT  
C/O DEPT OF FAC MANAGEMENT  
3133 MISSION INN AVE  
RIVERSIDE, CA 92507



County of Riverside Animal Service  
Attn: Chris Mayer  
6851 Van Buren Blvd.  
Jurupa Valley, CA 92509

Southland Engineering  
Attn: Lisa Merrit  
2200 Business Way, Suite 100  
Riverside, CA 92501

McVicker's Family Law Mediation Ctr.  
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COUNTY OF RIVERSIDE  
SPECIALIZED DEPARTMENT RECEIPT  
Permit Assistance Center

R1612196

4080 Lemon Street Second Floor Riverside, CA 92502 (951) 955-3200	39493 Los Alamos Road Suite A Murrieta, CA 92563 (951) 600-6100	38686 El Cerrito Road Palm Desert, CA 92211 (760) 863-8277
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Received from: MCVICKER TIMOTHY AND ELIZABETH \$983.28  
paid by: CK 13389  
paid towards: PP25922 NOT EXEMPT FROM CEQA  
at parcel #: 17370 VIA ABRIL MURR  
appl type: PP03

By \_\_\_\_\_ Oct 11, 2016 09:16  
MGARDNER posting date Oct 11, 2016

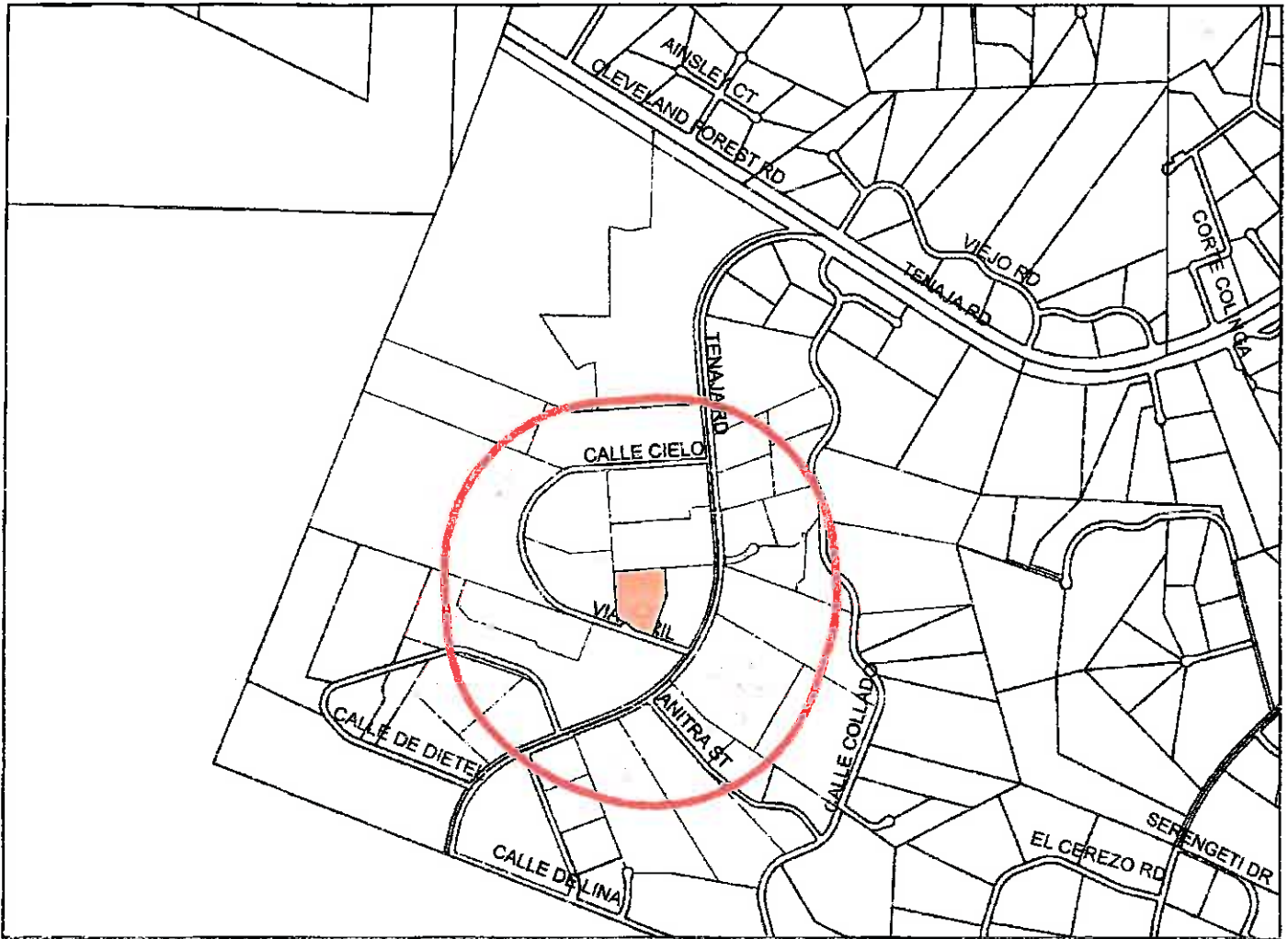
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Account Code	Description	Amount
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100001000100777520	CLERK OF THE BOARD	\$26.00
202033100200772210	LMS SURCHARGE	\$19.28
100003120100777180	PLANNING: APPEALS	\$910.00

Overpayments of less than \$5.00 will not be refunded!

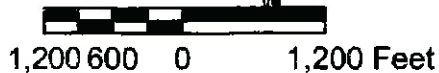
Additional info at [www.rctlma.org](http://www.rctlma.org)

**PP25922 (1600 feet buffer)**



**Selected Parcels**

932-020-022	932-040-021	932-050-034	932-040-014	932-040-015	932-050-030	932-050-032	932-050-040	932-050-043	932-390-014
932-050-041	932-050-037	932-040-019	932-050-010	932-030-025	932-030-027	932-040-010	932-040-013	932-050-038	932-020-027
932-050-033	932-050-036	932-050-035	932-020-003	932-020-023	932-050-044	932-020-017	932-040-018	932-020-019	932-020-024
932-030-011	932-030-019	932-030-022	932-020-021	932-020-026	932-020-025	932-050-045	932-040-011	932-050-031	



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# Memorandum

**TO:** Ralph Morrow, General Manager  
Tenaja Community Services District

**FROM:** James S. Okazaki

**Date:** April 16, 2001

**Subject:** Tenaja Community Services District-Powers

BASIC POWERS OF THE DISTRICT. The Tenaja Community Services District was formed on July 30, 1985 pursuant to Resolution No. 85-409 of the Riverside County Board of Supervisors which states that "...District is organized for the purposes of providing within said District:

- "(a) Collection, treatment or disposal of storm water;*
- (a) Collection or disposal of garbage or refuse matter;*
- (b) Protection against fire;*
- (c) Public recreation by means of parks, including, but not limited to, playgrounds, golf courses, swimming pools, or recreation buildings;*
- (d) Equipment and maintenance of a police department or other police protection to protect and safeguard life and property;*
- (e) The opening, widening, extending, straightening, surfacing and maintenance, in whole or in part, of any street in such district subject to the consent of the governing body of the county or city in which said improvement is to be made.*
- (f) The construction and improvement of bridges, culverts, curbs, gutters, drains, and works incidental to the purposes specified in (f), subject to the consent of the governing body of the county or city in which said improvement is made;*
- (a) The conversion of existing overhead electric and communication facilities to underground locations in accordance with Public Contracts Code Subdivision (1);"*

**B. Administration of Covenants, Conditions & Restrictions.**

**FACTS:** Developers commonly impose Covenants, Conditions, & Restrictions [CC&Rs] when a larger parcel of land is subdivided to assure that the improvement of each of the parcels within the boundaries of the tract will conform to a uniform standard. Such CC&Rs are typically administered by an Architectural Control Committee [ACC] comprised of and selected from among the owners within the tract. The powers of the ACC are derived from the provisions of the particular CC&Rs, and its jurisdiction is limited to the boundaries of the subdivision. A number of years ago Community Services Districts, particularly in the more sparsely populated areas of California discovered that developers of many of the subdivisions within their jurisdiction had adopted and recorded CC&Rs, but the owners had not created an ACC to administer them. Such Districts, therefore, prevailed upon the legislature to pass a law identical to Section 61601.16 of the Government Code which empowers the Board of Directors of the Tenaja Community Services to **enforce the covenants, conditions and restrictions adopted for each tract within the boundaries of the District, and to assume the duties of the Architectural Control Committee for each tract within the boundaries, for the purpose of maintaining uniform standards of development.**

**QUESTION 1:** State the specific law which forbids the District's utilizing public funds for the administration of the CC&Rs.

**ANSWER 1:**

To the best of our knowledge and belief, there are no statutes which specifically state that **Community Services District shall not expend its public funds for the administration of private CC&Rs** for the simple reason that the legislature would, in our opinion, have no reason to pass a law which states the obvious: [\*The researching of relevant court decisions is far beyond the scope of this memorandum. If the Board of Directors desires a legal opinion with recitations of judicial decisions, we will provide such services by separate arrangement.] The basis of our opinion rests upon the following:

- (a) The Tenaja Community Services District is a local governmental agency possessing only such powers as are enumerated above [BASIC POWERS OF DISTRICT].
- (a) CC&Rs constitute **private** contracts among the owners of a particular subdivision.
- (b) Section 61601.16 essentially states that the five members of the Board of Directors of the Community Services District may take the place of the Architectural Control Committee to enforce the covenants, conditions and restrictions adopted for each tract within the boundaries of the District.
- (d) The Architectural Control Committee for each of the five (5) Subdivisions within the District can, therefore, administer only the CC&Rs for that tract. There are no carry-overs of CC&Rs from one tract to another, and certainly no granting of governmental powers to a private function simply

because the members of the Architectural Control Committee also happen to possess governmental powers in another role.

(e) The five members of Tenaja's Architectural Control Committee do not sit as a single body for all of the five subdivisions; rather, they act as a separate ACC for each of them, just as the Architectural Control Committee for Meadow Oaks administers only its CC&Rs.

(f) Any suggestion that "*CC&Rs are a general benefit to the District*" is not at all relevant, and in our opinion patently facetious! *QUERY: How does the administration of CC&Rs which affect only subdivision A beneficially affect subdivisions B, C, D, E and the areas with no CC&Rs?*

QUESTION 2: May funds collected for the administration of CC&Rs be utilized only for enforcement and not for *normal administration by district staff*?

ANSWER 2: No. All expenses related to the performance of the non-governmental function of administering the CC&Rs must be funded by the owners within the boundary of particular subdivision.

QUESTION 3: Must each CC&R be amended to provide for collection of funds?

ANSWER 3 : CC&Rs which do not provide for the collection of funds, must be appropriately amended. The amended CC&Rs must indicate the method of collection and the handling of delinquencies. Since the CC&R's are a private contract, the collection of funds for the administration and enforcement cannot be placed on the tax rolls.

QUESTION 4: How would the fees be collected ?

ANSWER 4: Unless the CC&R's specify the manner of collection, the Board may establish its own collection procedures. The CC&R's must first be amended to provide for the collection of funds.

QUESTION 5: Would these collections be subject to the provisions of Proposition 218?

ANSWER 5: To reiterate: Administration of the CC&Rs is a **non-governmental function**. Proposition 218 is, therefore, not applicable for the collection of funds for the administration and enforcement of the CC&R's.

# TENAJA ARCHITECTURAL CONTROL COMMITTEE

## Plan Submittal

Plans must have the following items:

1. APN number listed on the plans.
2. Address or location (by street name) on the plans.
3. Name, address, and telephone number of the owner.
4. Exterior colors.
5. Site plan and a grading plan.
6. Two (2) complete sets of drawings, less detail drawings.



*Steve Weiss*  
*Planning Director*

# RIVERSIDE COUNTY PLANNING DEPARTMENT

## Memorandum

Date: January 18, 2017

Subject: Appeal of Approved Plot Plan No. 25922 of a Class II Kennel to Planning Commission

RE: Additional correspondence in opposition or support of the Approved Plot Plan No. 25922 of a Class II Kennel

To: The Planning Commission (For Planning Commission hearing dated January 18, 2017)

From: Tim Wheeler, Project Planner

Please find attached additional correspondences both in opposition and in support of the Approved Plot Plan No. 25922 of a Class II Kennel. These are additional correspondences received after the final preparation of the Staff Report for this Appeal of the Approved Plot Plan. The additional emails or letters have been received are:

- 1) Correspondence regarding Tenaja Community Service District's permit clearance on building permits applied in their area
- 2) Email from Elizabeth McVicker further inquiring about reason for delay of Appeal to Planning Commission hearing to January 18, 2017 with photo attached
- 3) Email from Kathy and Tony Barajas in support of the Approved Class II Kennel
- 4) Email from 1<sup>st</sup> District Office & Commissioner from Michael Juha in support of the Approved Class II Kennel
- 5) Email from Debra Brown in support of the Approved Class II Kennel. Email also includes the email from the appellant Scott Becker to the Tenaja Community area neighbors and residents.

Riverside Office · 4080 Lemon Street, 12th Floor  
P.O. Box 1409, Riverside, California 92502-1409  
(951) 955-3200 · Fax (951) 955-1811

Desert Office · 77-588 El Duna Court, Suite H  
Palm Desert, California 92211  
(760) 863-8277 · Fax (760) 863-7555

# CC&Rs That Govern The Project Site





## Tenaja Community Services District – Architectural Control Committee

- ▶ **McVicker's submitted a plan for a “tough shed” not a Class II Kennel to the Architectural Control Committee.**
- ▶ **McVicker's received approval to put in a storage shed; not a Class II Kennel.**
- ▶ **McVicker's have been notified, they are in violation of the CC&Rs by their misrepresentation of their project.**



10/11/16  
14:27

Riverside County LMS  
CONDITIONS OF APPROVAL

Page: 1

ACCESSORY STRUCTURE Permit No: BAS150253

Parcel: 932-020-024

80. PRIOR TO BLDG PRMT ISSUANCE

TLMA DEPARTMENT

80.TLMA. 1

BP\* TENAJA COMM SERVICE DIST

Prior to issuance of permit, clearance is required from the Teneja Community Service District. Please contact arlene Miller at 951 678-9778 for further details and requirements.

cleared  
11/20/15  
MET

TCSD Ltr dated 11/10/15

ARCHITECTURAL CONTROL COMMITTEE  
TENAJA CSD  
32395-B CLINTON KEITH ROAD  
WILDOMAR, CA 92595  
Tel: 951-678-9778

10 November 2015

Mr. Tim McVicker  
17370 Via Abril  
Murrieta, CA 92562

Re: Proposed storage shed at 17370 Via Abril in Tenaja CSD

Dear Mr. McVicker:

The Architectural Control Committee reviewed your plans for a proposed storage shed at the property at 17370 Via Abril, Murrieta, CA 92562. The review was conducted at the meeting of the Committee today. Thank you for having persons attending to answer the questions of the Committee about the drainage issue.

Your plans for the proposed storage shed are approved by the Architectural Control Committee.

Thank you for submitting your application. Please feel free to present this letter to the County of Riverside as evidence of approval by the Tenaja CSD Architectural Control Committee.

Please feel free to contact us with any questions.

This approval is valid for 120 days, during which time construction must start.

Your proposed storage shed must be built with appropriate permits from the County of Riverside, must have all utilities underground, and all outdoor lighting must comply with the restrictions required by the Palomar Observatory. Upon completion or final inspection, whichever comes first, all construction materials and equipment must be removed from your property promptly.

Sincerely,



Michael Juha, for the  
Architectural Control Committee

# Conditions of Approval

- ▶ **The County has always required Tenaja Community Services District approval or clearance as a condition of approval prior to issuing a permit.**



# 17402 Via Abril

- ▶ **BRS150297 County's Conditions of Approval Prior to Building:**
- ▶ **80.TLMA 001 "Clearance from Tenaja Community Services District is Required Prior to Issuance of Permit."**



10/11/16  
14:28

Riverside County LMS  
CONDITIONS OF APPROVAL

Page: 1

NEW RESIDENTIAL BLDG PMT Permit No: BRS150297

Parcel: 932-020-019

80. PRIOR TO BLDG PRMT ISSUANCE

*cleared  
10/30/15  
MET*

TLMA DEPARTMENT

80.TLMA. 1

BP\* TENAJA CSD CLEARANCE REQD

CLEARANCE FROM TENAJA COMMUNITY SERVICES DISTRICT IS  
REQUIRED PRIOR TO ISSUANCE OF PERMIT.

*Per phone call with A. Miller  
with TCSD. ok to clear COA.*

# 17250 Via Abril

- ▶ **BRS072134 County's Conditions of Approval Prior to Building:**
- ▶ **80.TLMA 001 "Prior to issuance of this permit, clearance must be obtained from the Tenaja Community Services District."**



10/11/16  
14:28

Riverside County LMS  
CONDITIONS OF APPROVAL

Page: 1

NEW RESIDENTIAL BLDG PMT Permit No: BRS072134

Parcel: 932-020-023

80. PRIOR TO BLDG PRMT ISSUANCE

TLMA DEPARTMENT

80.TLMA. 1

BP\* TENAJA COMMUNITY SVC DISTR

cleared  
12/13/07  
MET

Prior to issuance of this permit, clearance must be obtained from the Tenaja Community Service District. TCSD may be reached at: 32395 B Clinton Keith Rd., Suite 10, Wildomar, CA 92595, or by phone at 951 678-9778. Their web site is: [www.tenajacsd.org](http://www.tenajacsd.org).

TCSD Ltr dated 11/30/07  
from Richard Pierce



# 17370 Via Abril –Project Site

- ▶ **BRS071556 County’s Conditions of Approval Prior to Building:**
- ▶ **80.TLMA 002 “Prior to Issuance of Permit, Clearance is Required from the Tenaja Community Services District. Please contact Arlene Miller for further details and requirements.”**



10/11/16  
14:27

Riverside County LMS  
CONDITIONS OF APPROVAL

Page: 1

NEW RESIDENTIAL BLDG PMT Permit No: BRS071556

Parcel: 932-020-024

80. PRIOR TO BLDG PRMT ISSUANCE

TLMA DEPARTMENT

*clears  
12/3/07*

80.TLMA. 2

BP\* TENAJA CSD CLEARANCE

MET

PRIOR TO ISSUANCE OF PERMIT, CLEARANCE IS REQUIRED FROM THE  
TENAJA COMMUNITY SERVICES DISTRICT. PLEASE CONTACT ARLENE  
MILLER AT 951-678-9778 FOR FURTHER DETAILS AND  
REQUIREMENTS.

*TCSD Ltr dated 11/29/07  
From A. Miller*

# Not Asking for Enforcement

- ▶ The County has required clearance from Tenaja Community Services District (“TCSD”) prior to issuance of any plot plan.
- ▶ The project property has been subject to that condition of approval in the past.
- ▶ The County is aware that clearance has not been given from TCSD.
- ▶ The County should require this project obtain clearance from TCSD prior to issuing a permit.



## Wheeler, Timothy

---

**From:** Elizabeth Mcvicker <emcvicker@mcvickersfamilylaw.com>  
**Sent:** Friday, December 09, 2016 10:43 AM  
**To:** Wheeler, Timothy  
**Cc:** 'Tim Mcvicker'; 'Larry Myers Esq.'; amartin@southlandengineering.com; Hildebrand, John; Weiss, Steven; Magee, Robert; 'Lisa Merritt'  
**Subject:** RE: Appeal of the Planning Director's hearing for PP 25922  
**Attachments:** Becker photo 12072016.jpeg

Dear Mr. Wheeler,

I hope that you and your staff are enjoying the holiday season. Tim and I do very much appreciate all of the time and effort the County has spent on our plot plan.

We also understand that we are going through a process for an ultimate decision to be rendered on our application for a discretionary Class II dog kennel for our personal dogs at our residence.

The intention of this email is solely to provide some information to you which may shed some light on the possible reason why Mr. Becker was not available for the December 7, 2016 Planning Commission hearing.

Tim and I were surprised to see Mr. Becker in attendance at the Tenaja CSD meeting on December 7, 2016 (photo of Mr. Becker in attendance at meeting attached).

Further, all day Thursday December 8, 2016, and all day today December 9, 2016, have been filled with preparations at our next door neighbor (17350 Via Abril Murrieta CA) Mr. Becker's back yard for his daughter's wedding tomorrow. Mr. Becker's yard is tented and there is hustle and bustle everywhere. Here is the link to his daughter's wedding information:

<https://www.theknot.com/us/sashell-becker-and-brandon-shaffer-dec-2016>

Tim and I are waiting on pins and needles for the next hearing on our kennel license which has been set for January 18, 2016 in accord with Mr. Becker's request and availability.

Very truly yours,

T. Elizabeth McVicker, CFLS\* | McVicker's Family Law Mediation Center, PLC | Canyon Hills Marketplace | 29997 Canyon Hills Road, Suite 1603, Lake Elsinore, California 92532 | Direct Dial: 951 244-8659 | Fax: 951 244-3109 | [emcvicker@alllegalaccess.com](mailto:emcvicker@alllegalaccess.com) | [www.alllegalaccess.com](http://www.alllegalaccess.com)

\*Certified as a Specialist in Family Law by the State Bar of California, Board of Legal Specialization.

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**From:** Wheeler, Timothy [mailto:TWHEELER@rctlma.org]  
**Sent:** Thursday, November 17, 2016 6:05 PM  
**To:** 'Elizabeth Mcvicker' <emcvicker@mcvickersfamilylaw.com>  
**Cc:** 'Tim Mcvicker' <timothygmcvicker@gmail.com>; 'Larry Myers Esq.' <ldmyersesq@hotmail.com>; amartin@southlandengineering.com; Hildebrand, John <JHildebr@rctlma.org>; Weiss, Steven <SWeiss@rctlma.org>; Magee, Robert <RMagee@rcbos.org>; 'Lisa Merritt' <lmerritt@southlandengineering.com>  
**Subject:** RE: Appeal of the Planning Director's hearing for PP 25922

Ms. McVicker,

The firm date for the Appeal of PP25922 (Class II Kennel) going to Planning Commission is January 18, 2017. As the appellant is not available for the next Planning Commission dates of December 7, 2016 or January 4, 2017; January 18<sup>th</sup> is the date for this appealed hearing. The appellant is the leading factor at this time for way this case is proceeding to Planning Commission. He has agreed to and is available for the January 18, 2017 date.

Tim Wheeler  
Urban Regional Planner III  
4080 Lemon St - 12<sup>th</sup> floor  
Riverside, CA 92501  
951-955-6060

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---

**From:** Elizabeth Mcvicker [mailto:[emcvicker@mcvickersfamilylaw.com](mailto:emcvicker@mcvickersfamilylaw.com)]  
**Sent:** Thursday, November 17, 2016 1:40 PM  
**To:** Wheeler, Timothy  
**Cc:** 'Tim Mcvicker'; 'Larry Myers Esq.'; [amartin@southlandengineering.com](mailto:amartin@southlandengineering.com); Hildebrand, John; Weiss, Steven; Magee, Robert; 'Lisa Merritt'  
**Subject:** RE: Appeal of the Planning Director's hearing for PP 25922

Dear Mr. Wheeler,

Have you scheduled a firm date as of yet for the hearing on the appeal of our kennel license?

Thank you.

Sincerely,  
Liz

T. Elizabeth McVicker, CFLS\* | McVicker's Family Law Mediation Center, PLC | Canyon Hills Marketplace | 29997 Canyon Hills Road, Suite 1603, Lake Elsinore, California 92532 | Direct Dial: 951 244-8759 | Fax: 951 244-3109 | [emcvicker@mcvickersfamilylaw.com](mailto:emcvicker@mcvickersfamilylaw.com) | [www.mcvickersfamilylaw.com](http://www.mcvickersfamilylaw.com)

\*Certified as a Specialist in Family Law by the State Bar of California, Board of Legal Specialization.

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**From:** Lisa Merritt [<mailto:lmerritt@southlandengineering.com>]

**Sent:** Friday, November 11, 2016 2:26 PM

**To:** 'Wheeler, Timothy' <[TWHEELER@rctlma.org](mailto:TWHEELER@rctlma.org)>

**Cc:** 'Elizabeth Mcvicker' <[emcvicker@mcvickersfamilylaw.com](mailto:emcvicker@mcvickersfamilylaw.com)>; 'Tim Mcvicker' <[timothygmcvicker@gmail.com](mailto:timothygmcvicker@gmail.com)>; 'Larry Myers Esq.' <[ldmyersesq@hotmail.com](mailto:ldmyersesq@hotmail.com)>; [amartin@southlandengineering.com](mailto:amartin@southlandengineering.com); 'Hildebrand, John' <[JHildebr@rctlma.org](mailto:JHildebr@rctlma.org)>; 'Weiss, Steven' <[SWeiss@rctlma.org](mailto:SWeiss@rctlma.org)>; 'Magee, Robert' <[RMagee@rcbos.org](mailto:RMagee@rcbos.org)>

**Subject:** RE: Appeal of the Planning Director's hearing for PP 25922

Good Morning Timothy,

I met with the McVicker's and their attorney, Larry Myers last night. Pursuant to our telephone conversation on Tuesday regarding Scott Becker's request for a later Planning Commission date due to an "elected" vacation he will be taking. We request that a later date be denied. Scott Becker is NOT the project appellant. The "so-called" Tenaja Environmental Concerns Association (TECA) is the appellant and they have counsel to represent their "Association". We cannot continue to appease Mr. Becker in his mission to destroy the lives of Tim and Elizabeth McVicker. As you know, the TECA was formed for the sole purpose of taking down the McVickers and their right to live their lives with their dogs. Every other resident in the Tenaja area is afforded that right; including the 18 illegally boarded horses next door on the Becker property. We all know that if this was a legitimate Environmental Concerns Association they would be addressing environmental concerns for all projects; including how to address the urine and fecal matter from their horses in and along streams and trails; as well as the cows, texas longhorns, etc... in the immediate area. As it stands now, the urine and fecal matter from the horses on the Becker property draining into the blueline stream have killed the trees the McVicker's planted, over and over again. Let's not give this bully credence to his false claims and the hysteria he has created in the community.

Please place this item back on the Dec 7<sup>th</sup> Planning Commission. It is not right to make Tim and Elizabeth wait any longer.

Thank you so much!

Lisa



*Lisa A. Merritt, President*

**SOUTHLAND ENGINEERING**

2200 Business Way, Suite 100

Riverside, CA 92501

951-788-8488 OFFICE

951-534-7128 CELL

**From:** Wheeler, Timothy [<mailto:TWHEELER@rctlma.org>]

**Sent:** Tuesday, November 8, 2016 12:20 PM

**To:** 'Lisa Merritt' <[lmerritt@southlandengineering.com](mailto:lmerritt@southlandengineering.com)>

Cc: 'Elizabeth Mcvicker' <[emcvicker@mcvickersfamilylaw.com](mailto:emcvicker@mcvickersfamilylaw.com)>; 'Tim Mcvicker' <[timothygmcvicker@gmail.com](mailto:timothygmcvicker@gmail.com)>; 'Larry Myers Esq.' <[ldmyersesq@hotmail.com](mailto:ldmyersesq@hotmail.com)>; 'amartin@southlandengineering.com' <[amartin@southlandengineering.com](mailto:amartin@southlandengineering.com)>; Hildebrand, John <[JHildebr@rctlma.org](mailto:JHildebr@rctlma.org)>

**Subject:** RE: Appeal of the Planning Director's hearing for PP 25922

An Update:

I just finish emailing and speaking to the appellant (Mr. Becker) and he has requested a later date for the Planning Commission (PC) Appeal Hearing for PP25922. This will put the appeal into January as there are no further dates in December. Dates for the 2017 PC calendar have not yet been approved (they will be at the December PC hearing) and the next 2 tentative dates in January are 1/4/17 and 1/18/17. The tentative date requested by the appellant is 1/18/17. Once the 2017 PC calendar has been approved at Planning Commission, I will follow up with all parties involved on that approved/confirmed date.

Thank you

Tim Wheeler  
Urban Regional Planner III  
4080 Lemon St - 12<sup>th</sup> floor  
Riverside, CA 92501  
951-955-6060

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**From:** Wheeler, Timothy  
**Sent:** Tuesday, November 08, 2016 9:08 AM  
**To:** 'Lisa Merritt'  
**Cc:** 'Elizabeth Mcvicker'; 'Tim Mcvicker'; 'Larry Myers Esq.'; [amartin@southlandengineering.com](mailto:amartin@southlandengineering.com)  
**Subject:** RE: Appeal of the Planning Director's hearing for PP 25922

Good Morning Ms. Merritt,

We are scheduling the Appeal of PP25922 for Planning Commission for December 7<sup>th</sup>, 2016.

Tim Wheeler  
Urban Regional Planner III  
4080 Lemon St - 12<sup>th</sup> floor  
Riverside, CA 92501  
951-955-6060

[How are we doing? Click the Link and tell us](#)

---

**From:** Lisa Merritt [<mailto:lmerritt@southlandengineering.com>]  
**Sent:** Wednesday, November 02, 2016 2:45 PM  
**To:** Wheeler, Timothy  
**Cc:** 'Elizabeth Mcvicker'; 'Tim Mcvicker'; 'Larry Myers Esq.'; [amartin@southlandengineering.com](mailto:amartin@southlandengineering.com)  
**Subject:** Appeal of the Planning Director's hearing for PP 25922

Hi Timothy,

Could you please let us know if you have secured the November 16<sup>th</sup> Planning Commission date??? We haven't heard anything from you in a while. Please respond at your earliest.

Thanks!

Lisa



*Lisa A. Merritt, President*

***SOUTHLAND ENGINEERING***

*2200 Business Way, Suite 100*

*Riverside, CA 92501*

*951-788-8488 OFFICE*

*951-534-7128 CELL*



## **Wheeler, Timothy**

---

**From:** Tony & Kathy Barajas <tkbarajas@charter.net>  
**Sent:** Sunday, January 08, 2017 4:05 PM  
**To:** Magee, Robert; Wheeler, Timothy  
**Subject:** SUPPORT FOR TIM MCVICKER/SHADOW HUSKY RESCUE - APPEAL OF PLANNING DIRECTOR'S DECISION TO APPROVE PLOT PLAN NO 25933.

Hello,

Mr. McVicker is doing the most wonderful work with the husky rescue he runs, saving many lives and he needs to be able to continue saving these dogs. He has done this all out of the love of the breed and his need to save as many as possible. He has a nice circle of supporters, including foster parents for these dogs until they are adopted out. With his acreage, it should not be an issue with his neighbors who apparently are doing their best to overturn the kennel license. This is also a horse community with large lots and so having a dog kennel/rescue should not interfere or cause any issues in the area. The lot sizes are not your typical residential community. Huskies are the most friendly non-aggressive dogs and are known not to be big barkers. I myself personally have a Husky, age 2, who welcomes everyone to my house, is not aggressive and does not bark hardly at all - he just wants to be friends with all. This is what the Husky is known for. In fact, before I got my own husky, I was told by several people as well as in doing my research into the breed, that husky are very friendly and in fact would probably welcome a burglar into the home versus protecting the home. I found this hilarious but it is actually very true - they are NOT aggressive dogs.

Please do not overturn and deny this class 2 kennel license. Please allow Mr. McVicker to continue his husky lifesaving acts. He has my full support (as well as many, many others) and I have volunteered myself to be a foster "mom" and am currently awaiting a dog that I can help save. Please, please support this wonderful rescue.

**Cheers,**

**Kathy Barajas**

## **Wheeler, Timothy**

---

**From:** Magee, Robert <RMagee@RIVCO.ORG>  
**Sent:** Monday, January 09, 2017 9:33 AM  
**To:** Wheeler, Timothy  
**Subject:** FW: Please approve kennel permit for McVicker

FYI.

**From:** Michael Juha [mailto:michaeljuha@gmail.com]  
**Sent:** Sunday, January 08, 2017 12:41 PM  
**To:** CLeach@adkan.com  
**Cc:** Magee, Robert <RMagee@rcbos.org>  
**Subject:** Please approve kennel permit for McVicker

Dear Planning Commissioner Leach:

Today, I received an email from Mr. Scott Becker soliciting that I help him fight the kennel permit sought by Mr. and Mrs. McVicker for their property in Tenaja CSD.

Unlike Mr. Becker, I encourage you to approve that kennel permit for the McVickers.

I also encourage you to be wary of involving the County in disputes between owners of private properties when the disputes are based upon claims of violations of Covenants, Conditions, & Restrictions (aka CC&Rs).

I was a Board member for Tenaja CSD in 2014 and 2015. I was also a member of the Tenaja CSD Architectural Control Committee which reviewed and approved plans submitted by the McVickers.

I resigned from the Board of Tenaja CSD in 2016 after discovering unethical practices. I believe Mr. Scott Becker was appointed to replace me as a director.

Mr. Becker has been trying to engage the County, as well as Tenaja CSD, in his dispute with his neighbors, the McVickers. Mr. Becker has sought to obtain advantage for his complaint in any way he can (and this is normal human behavior). However, there are many facts which Mr. Becker chose to ignore.

First, Tenaja CSD no longer has the authority to enforce CC&Rs. After being founded by the County in 1985, Tenaja CSD was given the authority to enforce CC&Rs by California Government Code Section 61601.10 which authority was put into effect shortly after voters in Tenaja CSD approved taking on the responsibilities of Architectural Control in their November 1986 District election. However, Tenaja CSD lost this authority when Gov't Code Section 61601.10 was replaced with Gov't Code Section 61105 in year 2006. Tenaja CSD remained unaware of this change until 2014 when I made the Board and the General Manager of Tenaja CSD aware of the 2006 change in Gov't Code. When made aware of the change in Gov't Code, other Directors and the GM claimed it was a typographic error, and chose to ignore the issue. As a director, I asked that Tenaja CSD's GM contact State Assembly Member Melissa Melendez to obtain a correction to Gov't Code 61105. Tenaja CSD's Board and GM did nothing in the 3 years since early 2014 when they were notified of the change in law. In January 2014, in recognition of the change in law, I made a motion which was approved by a majority of the Board, that the activities of the Tenaja CSD Architectural Control Committee be restricted to assuring structures were set back from property boundaries by appropriate distances to protect roadways, and that the Architectural Control Committee also limit itself to ensuring proper drainages from any improved property. These

restrictions became the scope of work for the Tenaja CSD Architectural Control Committee in January 2014, and they prevail as the scope of work today.

Second, on 4-27-2001 the Legal Counsel of the Tenaja CSD advised the Tenaja CSD Board and GM that they were not empowered to spend public funds on CC&Rs matters, since CC&Rs were private property encumbrances and not rules, ordinances, or regulations issued by Tenaja CSD as a public agency. Tenaja CSD has 5 different sets of CC&Rs encumbering properties within the District, as well as a substantial land area with no CC&Rs. The Legal Counsel of Tenaja CSD advised the Board and GM to collect fees or other sources of non-public (not taxes or special assessments) funds to the extent the CC&Rs enabled them. Since 2001, Tenaja CSD has not made an effort to collect these non-public funds to provide for operation of the Architectural Control Committee.

Third, Tenaja CSD is not an equine community, or equestrian community, as Mr. Becker alleges. In the 1990s, Tenaja CSD asked voters to decide if the District should build and maintain trails in the community. The voters refused to approve an effort to build and maintain trails. As a result, equestrian trails are limited to whatever private property owners are willing to provide and maintain. Tenaja CSD has some property owners who own horses, but there are an equal number of property owners who do not own horses (and some have unused horse facilities).

Fourth, the McVickers desire to operate a dog rescue operation on their property, much like some of the equestrian property owners on the Santa Rosa Plateau operate horse rescue operations on their properties. The effort by the Beckers to stir up their neighbors ignore the fact that the rural area of Tenaja CSD is a suitable area for such animal rescue operations.

Fifth, the environmental concerns expressed by Mr. Becker from dog feces should also be applied to horse feces. As a Board member for Tenaja CSD, I had three owners of large acreages in Tenaja CSD become very upset when equestrians chose to ride through their properties without permission, and leave substantial evidence of their horses' passage in the form of urine and feces in stream beds which crossed both owners' properties. The equestrians have the attitude that if an owner does not fence their property, that property is free for the equestrians to use as they would like. And, the equestrians did take down owners' "No Trespassing" signs.

Sixth, given that the County is a public agency, I believe the County, like Tenaja CSD, is subject to restraints against using public funds to resolve private property disputes based upon CC&Rs. When I read the first objection raised by Mr. Becker in his text below, I am left wondering why the County is involved in this matter?

Here is the leading objection as presented in the text of Mr. Becker's email of today:

"1. A Kennel II operation is a commercial use of the property which violates our Covenants, Conditions and Restrictions ("CC&Rs"). All property owners should be concerned about commercial uses being allowed in violation of the CC&Rs that ensure our community remains rural and is not exposed by these types of commercial nuisances."

I question Mr. Becker's assertion that a Kennel II operation is a commercial use of property. If no money changes hands, how is an animal rescue operation a commercial operation?

I find the County involvement in this private property dispute troubling, since it uses public funds to resolve a private property dispute.

I also find it troubling that Mr. Becker is operating under the color of authority he obtains as a Board member of Tenaja CSD, as well as the Tenaja ECA (an entity he appears to have created).

I am aware that the McVickers employ personnel to be on duty 24/7 to tend the dogs on their property. The dog escape referred to by Mr. Becker occurred just once when a vendor vehicle failed to close a gate properly. I understand the McVickers have addressed this gate issue with a remedy. The McVickers are trying to comply with County Ordinances. It appears Mr. Becker wants to prevent the McVickers from compliance in the interest of gaining advantage in any eventual litigation he might pursue.

Does the County want to be a pawn in this contest of wills?

I recommend against it.

The Beckers need to resolve their dispute with the McVickers on their own, or through litigation in the courts.

Without going into all the details, some of the issues I have with Tenaja CSD which caused my resignation from the Board are related to filing false financial reports. Tenaja CSD has claimed the road right of way lands within the community as an asset on their balance sheet worth \$4.29 million. However, the County owns all the right of way lands, since those lands were dedicated to, and accepted by, the County. For example, the few right of ways in Tenaja CSD which had not been properly accepted by the County were finally accepted by the Board of Supervisors at their 22 April 2014 meeting. Tenaja CSD spent approximately \$43,000 on engineering and surveying to facilitate this acceptance of right of way by the County. The 22 April 2014 acceptance of right of way by the County completed the acceptance of all right of way land within Tenaja CSD. Given that fact, the financial statements of Tenaja CSD show a remarkable lack of a grasp of the obvious, and other Board members were unwilling to consider corrective action.

In the context of the foregoing paragraph, if a local agency will misrepresent ownership of land in its financial statements, how questionable are its other actions? I chose to quit being a Board member for such a local agency, despite having been elected by a landslide as a write-in candidate. The 80 households that voted for me expressed great disappointment when I resigned from the Tenaja CSD Board.

I made Mr. Becker aware of the reasons for my resignation shortly after I resigned.

Please feel free to contact me via email or telephone with your questions.

Michael Juha

Tel: 951-600-1462

Email: [michaeljuha@gmail.com](mailto:michaeljuha@gmail.com)

### Confidentiality Disclaimer

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[County of Riverside California](#)

## Wheeler, Timothy

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**From:** Debra Brown <calle-el-sauce@verizon.net>  
**Sent:** Monday, January 09, 2017 2:04 PM  
**To:** Wheeler, Timothy; Weiss, Steven; Commision Leach; Magee, Robert  
**Subject:** Commercial Class II Kennel January 18, 2016

**Importance:** High

To Whom It May Concern:

I wanted to reiterate my continued support in granting the requested Kennel License Permit. I truly believe that the party requesting the permit has but one goal in mind, to house their dogs in a safe and secure environment and that they are not proposing to operate an animal rescue and/or breeding facility.

I am both a dog and equine owner and also ride the trails of La Cresta and Tenaja. I strongly believe that this area is large enough to support not only equine ranches but canine kennels as well. All should have a place here on the Santa Rosa Plateau.

The minimum parcel is 5 acres, with many properties encompassing 10 acres or more. This is not the City. Those of us who reside here have chosen it for a reason. It is beautiful, natural land, abundant with space and wildlife. A home for both domestic and wild creatures alike. It is not by any means for the use equine only. I absolutely do not understand how the granting of a Kennel Permit would encroach on any of the equine owners' ability to ride and enjoy the many horse trails throughout the area, nor how it could possibly impose upon the California Environmental Quality Act or be in violation of the local CC&R's, both claims of which seem absurd (**please refer below to the email that I received from the opposing party**).

While some may view a kennel as a nuisance, a good kennel owner will take appropriate steps to safely confine their animals within their property and away from neighboring residences. Additionally, licensed kennels are subject to numerous regulations and on-going inspections beyond that of normal dog licensing. If down the road offenses are found or documented nuisances received the kennel permit could be revoked. The approval of kennel license is not "set in stone" for all time. Obviously, its ability to remain within the community will, in the long run, be dependent upon its Owners. From what I have read, the Owners requesting the kennel license are extremely caring individuals with only one goal in mind, to care for a group of well trained and socialized dogs that are undeniably considered "beloved family pets".

Please know that I have not met the owners of the proposed kennel, nor I have met those who are opposed to the kennel. I assume that I have been solicited by the opposing party through use of the Santa Rosa Plateau Riding Club's Members Directory. However, as being relatively new to the plateau I have not had the opportunity to attend any of the Riding Club Events or meet with its members.

Personally, I believe the persons that are seeking the kennel license are entitled to have the opportunity to prove themselves fit to successfully operate a safe, clean and contained home kennel. How is it that ranch owners of equine, fowl and other menagerie are not classified as "commercial use" and instead are justified and allowed while canine kennels (ranches) are not? As for the fear of losing our rural community... Seriously?? Where better for a kennel to reside but in a rural area? Is that not why the other types of ranches / animal housings are here? I know that's why the packs (and packs) of coyotes are here. As for howling dogs verses howling coyotes....the coyotes unanimously win that debate. Just saying.....

Debra Brown  
20955 Calle El Sauce  
Murrieta (La Cresta), CA 92562

**From:** [tenajaeca@gmail.com](mailto:tenajaeca@gmail.com)

**Sent:** Sunday, January 08, 2017 9:56 AM

**To:** [tenajaeca@gmail.com](mailto:tenajaeca@gmail.com)

**Subject:** FW: Fight Commercial Class II Kennel January 18, 2016

## **Fight Commercial Class II Kennel Use By Attending The County of Riverside Planning Commission Hearing 01/18/2017**

Dear Friends and Neighbors,

As most of you are aware the Property owners who reside at 17370 Via Abril in Tenaja, have applied for a Class II Kennel Permit which will allow them to house 25 Siberian Huskies. They currently have 18 dogs on the property that have caused numerous disturbances, all well documented by Animal Control, Code Enforcement and Notarized Testimonials by surrounding neighbors. The County of Riverside Planning Commission's Public Hearing will take place **Wednesday, January 18th @ 9:00am to address our appeal** to permitting a commercial use in our quiet, rural community. In order to defeat this unlawful use, we need to let the County know our concerns by speaking out at the hearing. As most of you know, they have been secretly functioning as a rescue operation in our quiet Equine Community.

This hearing is held to determine if the Riverside County **Planning Commission** will **reverse the improper decision** that was made on September 26th by the **Planning-Director** who approved the Class II Kennel project. As most of you know, the Planning Director completely disregarded our Covenants, Conditions and Restrictions ("CC&Rs"), and the written request from our Architectural Control Committee to deny this request based on improper land use. The Planning Director also, erred—when he exempted the project from environmental review under the California Environmental Quality Act ( CEQA ), and completely ignored the fact that this kennel has been in violation of County regulations for over a year.

Remember, this issue is extremely important to all of us because if the Class II Kennel project, a commercial use, is allowed, it may open the doors to similar commercial uses and destroy the rural nature of our community negatively affecting property values. Additionally, information regarding the concerns is listed at the end of this email.

**We are providing Transportation to and from the Hearing. We will be heading out at 6:30am, and will be making stops along Tenaja Road from our home at Via Abril, to Clinton Keith Rd.**

**IT IS URGENT THAT OUR COMMUNITY MAKE A STRONG SHOWING OF OPPOSITION BY ATTENDING THIS HEARING. OUR WAY OF LIFE AND THE FUTURE URBANIZATION OF OUR COMMUNITY IS AT STAKE. ALLOWING THIS KENNEL TO EXIST IN OUR COMMUNITY WILL SET A PRECEDENT THAT COULD BRING IN MORE COMMERCIAL OPERATIONS, TRAFFIC AND URBANIZATION TO OUR PEACEFUL AND EXTRAORDINARY VALLEY. COUNTY OF RIVERSIDE HEARING ADDRESS:**

County of Riverside Administration Building  
4080 Lemon St.  
Board of Chambers, 1st Floor  
Riverside, CA 92501

Here's a reminder why our community is in opposition of the Class II Kennel request:

1. A Kennel II operation is a commercial use of the property which violates our Covenants, Conditions and Restrictions ("CC&Rs"). All property owners should be concerned about commercial uses being allowed in violation of the CC&Rs that ensure our community remains rural and is not exposed by these types of commercial nuisances.
2. The dogs have "escaped" from the property and they are likely to do so again. Their first escape resulted in chickens killed, livestock attacked, and one neighbor so terrified to leave her house for over an hour. It is well documented that Siberian Huskies have a propensity to kill small animals, and attack large mammals as a pack, like horses. They are classified as the fourth most dangerous dog breed behind Pit Bulls and Rottweilers. The statistics show they have and will attack small, defenseless animals including children. (See Link Below). An Equine Community is no place for a Kennel that will house up to 25 dogs, especially this breed. This type of operation is simply incompatible with the area.
3. The dogs love to howl and when you have 18-25 of them howling, it is a nuisance that disturbs the quiet enjoyments of the neighborhood.
4. Numerous Environmental concerns with 18-25 dogs including defecating and urinating.
5. Siberian Huskies, like most dogs, require love and attention that two people simply cannot give 18-25 dogs. In most kennels, dogs are adopted out to loving families and do not spend their entire life in a kennel. In the proposed kennel, the dogs will be condemned to spending the rest of their lives in a 480 square foot kennel, without ever having an opportunity to have a family of its own, waiting on two people who work full time to come home. Experts on Huskies agree that the lack of attention results in serious negative behaviors. To wit, Huskies are #4 on the list of most dangerous dogs. Huskies are #2 on the noisiest dog breed list. Every reference book on Huskies agree, without proper care they will howl and become destructive. Husky breeds are excluded from coverage under most homeowner's insurance policies because of their aggressive nature and bite history. There is not a single Homeowners insurance policy that will provide coverage for 25 Huskies, it requires a "**Commercial**" Kennel policy to provide coverage for this potential liability exposure. Long story short, if you or your family is attacked, it will not be covered by the owner's insurance.

As you may know, the County of Riverside only allows four dogs to be kept on a **residential** property. This requirement is an excellent way to reduce private nuisances created by too many dogs on a property and the associated barking, howling and problems with dog fecal matter, and to ensure dogs receive the proper love and attention they deserve. We've all seen the commercials on television where animals must be "rescued" from cages on private property due to neglect. Dogs deserve a family; not treated as herds to be penned in mass numbers. If you care for animals, you know a permanent kennel life is no life for a dog.

In closing, If we don't stand up for the "no commercial use" prohibition today, and our CC&R's, we will lose valuable property rights we cannot get back in the future. Tenaja Community Services District ("TCSD") and Surrounding Communities CC&Rs prohibits commercial use which this clearly is.

As Residents of Tenaja, La Cresta and the Santa Rosa Plateau, I urge you to contact the County of Riverside and ask that they respect our CC&R's and their own Ordinances by declining the permit application.

Please send your e-mails to **both** the following individuals:

Planning Commissioner Leach at [CLEach@adkan.com](mailto:CLEach@adkan.com) or call (951) 955-7436

Robert Magee at [RMagee@rcbos.org](mailto:RMagee@rcbos.org) or call 951-955-1010

If you would like more information, or to reserve seats on the bus, please send us an e-mail. You can also "Join the Event" on our Facebook Page.

Sincerely,  
Scott Becker  
TECA-Tenaja Environmental Concerns Association  
[TenajaECA@gmail.com](mailto:TenajaECA@gmail.com)  
<https://www.facebook.com/tenaja.staff>



This email has been checked for viruses by Avast antivirus software.  
[www.avast.com](http://www.avast.com)





RIVERSIDE COUNTY  
PLANNING DEPARTMENT

*Steve Weiss*  
*Planning Director*

## Memorandum

Date: September 26, 2016

Subject: Plot Plan No. 25922 (proposed Class II Kennel)

RE: Additional correspondence in opposition and support for Plot Plan No. 25922 (proposed Class II Kennel)

To: Director Weiss (Hearing Officer for Director's Hearing September 26, 2016)

From: Tim Wheeler, Project Planner

Please find attached additional correspondences both in opposition and support for Plot Plan No. 25922 (proposed Class II Kennel) that have been received after the final preparation of the Staff Report for this Plot Plan. The additional emails or letters have been received:

- 1) Email from Tyler & Bursch, LLP lawyers for S. Becker
- 2) Julie Schwaiger in support of Class II Kennel
- 3) Gregory & Cornelia Brentano in opposition of Class II Kennel
- 4) Email from Elizabeth McVicker regarding their Class II Kennel project
- 5) Susan Frommer in opposition of Class II Kennel
- 6) Frank & Terry Minnameyer in opposition of Class II Kennel
- 7) Joan Patterson in opposition of Class II Kennel
- 8) Reem Haddad in support of Class II Kennel
- 9) Tina Clippinger in opposition of Class II Kennel
- 10) Hongran Stone in opposition of Class II Kennel
- 11) Debra Brown in support of Class II Kennel
- 12) Robbin Glatman in support of Class II Kennel
- 13) Robert Burdge in support of Class II Kennel
- 14) Scott Becker in opposition of Class II Kennel
- 15) Hard copy of PowerPoint presentation from Applicants for 9-26-16 hearing
- 16) Additional emails of support and documents provided by Elizabeth McVicker for Class II Kennel
- 17) Hard copy of PowerPoint presentation from Opposition for 9-26-16 hearing
- 18) Email from Tina Clippinger in opposition of Class II Kennel
- 19) Additional documents provided at the Director's Hearing: Animal Services Field Activity Log; Letter from Roma Stromberg regarding Noise Standard vs. Nuisance noise Standard with exhibits.

Riverside Office · 4080 Lemon Street, 12th Floor  
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Palm Desert, California 92211  
(760) 863-8277 · Fax (760) 863-7555

## Wheeler, Timothy

---

**From:** Weiss, Steven  
**Sent:** Monday, September 26, 2016 11:37 AM  
**To:** Wheeler, Timothy; Clack, Shellie; Cushman, Melissa  
**Subject:** FW: Becker, Scott/Land Use Issues: Comments in Opposition to Plan Plan 25922, the Class II Kennel Project, Applicants Timothy & Elizabeth McVicker  
**Attachments:** Ltr Nicholson to Weiss\_9-26-16.pdf  
**Importance:** High

FYI

---

**From:** Joy Lloyd [<mailto:jlloyd@tylerbursch.com>]  
**Sent:** Monday, September 26, 2016 11:28 AM  
**To:** Weiss, Steven  
**Cc:** Robert Tyler; Marty Nicholson; Joy Lloyd  
**Subject:** Becker, Scott/Land Use Issues: Comments in Opposition to Plan Plan 25922, the Class II Kennel Project, Applicants Timothy & Elizabeth McVicker

Mr. Weiss:

Attached please find correspondence of today's date. Hardcopy to follow via U. S. Mail.

Should you have any questions, please contact our office.

*Joy A. Lloyd*

[jlloyd@tylerbursch.com](mailto:jlloyd@tylerbursch.com)

Legal Assistant

**TYLER & BURSCH, LLP**  
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Reply To:  
Riverside County Office:  
24910 Las Brisas Road, Suite 110  
Murrieta, California 92562  
Telephone: 951.600.2733  
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www.tylerbursch.com

Orange County Office:  
The Logos Building  
3000 West MacArthur Boulevard  
Suite 440  
Santa Ana, California 92704  
Telephone: 949.707.2733

September 26, 2016

VIA ELECTRONIC  
AND U.S. MAIL &

Mr. Steven Weiss  
Planning Director  
County of Riverside Planning Department  
4080 Lemon Street, 12th Floor  
Riverside, California 92501  
Email: [sweiss@rctlma.org](mailto:sweiss@rctlma.org)

Re: *Comments in Opposition to Plot Plan 25922, the Class II Kennel Project,  
Applicants Timothy & Elizabeth McVicker*

Dear Mr. Weiss:

On behalf of the Tenaja Environmental Concerns Association, I submit these comments in opposition to the Class II Kennel, Plot Plan No. 25922 (the "Project") located in Santa Rosa Plateau.

**I. CEQA Comments**

It has been determined that the Project is exempt from CEQA under two categorical exemptions (Section 15301 and Section 15303). While on the surface those two categorical exemptions appear to apply, in a closer analysis the exemptions do not apply to this project for the following reasons:

**A. Section 15301 "Existing Facilities" Exemption**

Under Section 15301, the CEQA Guidelines ("Guidelines") state "[t]he key consideration is whether the project involves negligible or no expansion of an *existing use*." The Guidelines assist the determination by offering up examples of where the "existing facilities" exemption has been applied. The exemption has been applied in alterations involving interior partitions, plumbing and electrical conveyances; existing facilities of publicly owned utilities; existing highways, streets, sidewalks, gutters, bicycle and pedestrian trails; restoration or rehabilitation of damaged structures to meet public health and safety; and additions to existing structures provided the addition will not result in an increase of more than: 50 percent of the floor area of the structures; or 10,000 square feet if (a) the project is in an area where all public services are available, and (b) the area in which the project is located is not environmentally sensitive. The Guidelines cite many other examples that deal with maintenance, minor repairs, demolition, conversions to office use, medical waste generator and family day care.

Of all of these examples, the only example that comes close to qualifying the project for this exemption is “additions to existing structures provided the addition will not result in an increase of more than: 50 percent of the floor area of the structures; or 10,000 square feet if (a) the project is in an area where all public services are available, and (b) the area in which the project is located is located is not environmentally sensitive.” The problem is “addition to existing structures” is not proposed by the Project. Moreover, if the Project were properly described by not only describing the kennel but the dog play area also being installed, the project would fall under the 10,000 square foot requirement. It is clear that this exemption is not available to projects that are located in environmentally sensitive areas, such as the Santa Rosa Plateau.

There are few areas within the County of Riverside that are more environmentally sensitive than the Tenaja Valley given its adjacent to Cleveland National Forest and in close proximity to the Santa Rosa Preserve. There is no “existing use” because the property has never been granted a Class II Kennel permit. Finally, the Project does not propose an addition to existing facilities. Given all of these factors and the examples provided by the Guidelines, a Section 15301 categorical exemption is not appropriate for this Project.

#### **B. Section 15303 “New Construction of Small Structures”**

Under Section 15303, the CEQA Guidelines (“Guidelines”) states “Class 3 consists of construction and location of limited numbers of new, small facilities or structures.” While this may appear to be exactly the situation for the Project, the Guidelines provide the examples such as: single-family residence in a residential zone; a duplex or multi-family residential structure; a store, motel, office, restaurant, or similar structure if the surrounding area is not environmentally sensitive; water main, sewage, electrical, gas or other utility; or accessory structures such as garages, carports, patios, swimming pools and fences.

The Project is not proposing adding residential use on top of residential use. (Section 15303(a) and (b).) Nor can a Class II Kennel be considered “accessory”<sup>1</sup> structure to the existing residential use. (Id. at (e).) The reasoning is few, if any, accessory structures require a Plot Plan, live-in caretaker and must comply with a rather long list of conditions outlined in Ordinance 630. Section 15303(c) does not apply because “Subsection (c) further limits the use of this exemption to those commercial projects which have available all necessary public services and facilities, and which *are not located in an environmentally sensitive area.*” (Cal. Resources Agency, California Environmental Resources Evaluation System, CEQA Guidelines; *Fairbank v. City of Mill Valley* (1999) 75 Cal.App.4th 1243, 1255 [89 Cal.Rptr.2d 233, 240], as modified on denial of reh'g (Oct. 29, 1999).) (Emphasis added.)

Moreover, the Guidelines also establish exceptions to the exemptions. (Guidelines, § 15300.2.) “Even if a project falls within the description of one of the exempt classes, it may nonetheless have a significant effect on the environment based on factors such as location,

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<sup>1</sup> “Accessory” defined as an addition, decoration, attachment or add-on to the existing residential dwelling.

cumulative impact, or unusual circumstances.” (*Save Our Carmel River v. Monterey Peninsula Water Management Dist.* (2006) 141 Cal.App.4th 677, 689, 46 Cal.Rptr.3d 387 (*Save Our Carmel River* ).)

The Project is located between two of the most environmentally sensitive areas in the County of Riverside, if not in the entire State of California. The Project site is identified in the Multi-Species Habitat Conservation Program of the County of Riverside. Therefore, location is definitely a factor. Additionally, the County’s General Plan identifies the Santa Rosa Plateau as being a “unique” community due to its rural and environmental considerations justifying a finding of “unusual circumstances.” If the project is located in a “particularly sensitive environment” an ordinary insignificant impact may become significant. (Guidelines § 15300.2.) Under Section 15300.2 “an activity which would otherwise be categorically exempt is not exempt if there are ‘unusual circumstances’ which create a ‘reasonable possibility’ that the activity will have a significant effect on the environment.” (*Fairbank, supra*, 75 Cal.App.4th at 1259.) In summary, “[a] categorical exemption shall not be used for an activity where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances.” (*San Francisco Beautiful v. City and County of San Francisco* (2014) 226 Cal.App.4th 1012, 1020.)

As you already know and the proponent has testified, the Project is one lot away from the Cleveland National Forest. In March 2011, the Pacific Southwest Regions of the US Forest Service announced its Ecological Restoration Implementation Plan for the Cleveland National Forest. In discussing the Project with land use staff at the Cleveland National Forest, they were unaware of the Project. Remember, the *SPAWN* court set aside the county’s categorical exemption because a project was adjacent to a protected anadromous fish stream and within a stream conservation area. (*Citizens for Environmental Responsibility, supra*, 242 Cal.App.4th at 569.) More importantly, if mitigation measures are proposed, such as when dogs are allowed outside, it precludes the County from an exemption finding. (*Id.* at 568.) For these reasons, the categorical exemptions should not apply.

## II. General Plan Comments

The Project is located in the Southwest Area of the General Plan and land use decisions are guided by the Santa Rosa Plateau/De Luz Policy Area (hereinafter “Santa Rosa Plateau Policy Area”). The General Plan states that “the unique Santa Rosa Ecological Reserve is located in here [the Santa Rosa Plateau Policy Area] and . . . plays a *significant role in setting the character for the area.*” (Emphasis added.) The General Plan explains that the Santa Rosa Plateau is a unique community with ranch style estates which have an equestrian focus. “Extensive citrus groves and avocado orchards complete the sense of quiet and remoteness so predominant here.” The residents of the Tenaja Valley have already informed you of their love for horses and for the quiet enjoyment of their properties that they have come to treasure prior to the intrusion of the McVickers’ dogs.

The General Plan, Santa Rosa Plateau Policy Area land use concepts discusses “The Santa Rosa Plateau forms a high valley along the west side of the Southwest Planning Area and provides still another unique environment devoted to rural estates, groves and *natural habitat.*” (Emphasis added.) The General Plan further explains that “[t]he Santa Rosa Ecological Reserve and the

Cleveland National Forest are designated for open space uses to reflect the rich and *significant habitat these areas provide.*” (Emphasis added.) In looking at the Habitat Map, provided in the General Plan, the area darkest green (Habitat Conservation) is placed where the Project is located.

Statements from the Santa Rosa Plateau Policy Area include:

- Maintaining the rural and *natural character* of the area;
- *Address long term stability* of the Santa Rosa Plateau Ecological Reserve;
- In order to maintain the Plateau’s attributes, *future development must be designed in accordance with the area’s rural character*;
- *Limit impacts to the ecological preserve.* (Emphasis added.)

Moreover, since the Project site is in a Habitat Conservation area, the Multi-Species Habitat Conservation Plan Policies should apply including:

- *Provide stepping-stone habitat linkages for the California gnatcatcher* as well as other species through the preservation of *land from the Santa Rosa Plateau.*
- *Conserve the Tenaja corridor*, which promotes large mammal movement between the Cleveland National Forest and the Santa Rosa Plateau. (Emphasis added.)

These General Plan policies should direct the land use decisions in the Tenaja Valley, especially on the Project site because of its Habitat Conservation designation. Having served in the field of Parks and Recreation for over twenty-seven years, I can tell you that placing 25 non-native species in the center of the Tenaja corridor will have an impact on animal movement. The Project is one property away from the Cleveland National Forest and directly on the way to the Santa Rosa Plateau Reserve. It should be noted that animals have greater abilities to sense the presence of other animals and the scent of 18-25 dogs will affect the native wildlife inhabitants. You already know how it has negatively affected the human population.

Moreover, it is the type of dog that is of great concern. I can speak from experience since my son moved back home with his Siberian husky, I have personal experience regarding the breed. My home backs up to a densely vegetated hillside that is inhabited by a variety of wild animals including possums, rabbits, birds, rodents, etc. It only took one week before my son’s Husky was no longer allowed in my backyard because the dog had killed so many of the animals. Just last week, my daughter informed me that while she was walking the dog on a leash on a horse trail, without warning the dog leaped from the trail towards a branch on a tree, grabbed a possum and shook it to death before she could take any action. When the experts state that Siberian Huskies have a high prey instinct, they most certainly mean it.

There is a reason why so many of these dogs end up in shelters and the biggest one is the howling. I have always been a dog lover until my son’s dog came along. I do not like the breed because from the time I drive into the garage the dog starts “talking”. It’s more like nagging and the

Mr. Steve Weiss  
September 26, 2016  
Page 5 of 5

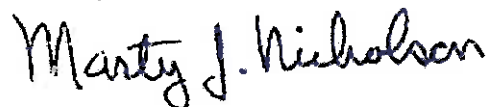
dog will not stop. At the last public hearing we had three clips so you could understand the noise concern. Due to technical difficulties, we were unable to play them. If you google husky howling, literally hundreds of clips will pop up because every owner of a Siberian husky experiences the howling. This breed is one of the noisiest dogs I have ever dealt with.

A Class II Kennel full of howling Siberian Huskies will significantly impact the Cleveland National Forest-Santa Rosa Plateau wildlife corridor. It doesn't take too much thought to realize if you were a wild animal and heard or smelled a pack of dogs, you would avoid the area. You heard from Project proponent that a 60lb husky attacked a full size cow. Additionally, since the California gnatcatcher's habitat has shrunk to almost disappearing, this Project is likely to harm this endangered species as well.

Finally, the Cleveland National Forest, the Santa Rosa Ecological Reserve, Fish & Game, Sierra Club and many other agencies are partnering in an attempt to restore the wildlife that use to flourish in this area. The Project is simply not logically located in this sensitive environment because it will negatively impact the efforts being made to restore the wildlife. It has and will continue to ruin the "quiet remoteness" that the General Plan identified.

If the General Plan Policies are to guide land use development, then this Project should be denied as totally incompatible with the long term stability of the Santa Rosa Plateau Ecological Reserve, the Cleveland National Forest's 2011 Ecological Restoration Plan, and the County's Santa Rosa Plateau Policies. That is why the residents of the Tenaja Valley respectfully request that you deny the Project.

Kind regards,



Marty J. Nicholson, Esq.

MJN:jal

## Wheeler, Timothy

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**From:** Julie Schwaiger <schwaiger@prodigy.net>  
**Sent:** Monday, September 26, 2016 11:12 AM  
**To:** Weiss, Steven; Wheeler, Timothy  
**Subject:** FW: Tim & Elizabeth McVicker

Also, I think the fact that these huskies, coming originally from multiple and different disadvantaged situations, get along so harmoniously with each other is clear testament to their gentleness!

When there are several huskies in a home, they obviously have easy-going characters to be living so well with each other. These dogs pose no harm to anybody!

It is a very wonderful thing that there are people in this world like Tim & Elizabeth to give them such a beautiful home.

---

**From:** Julie Schwaiger [<mailto:schwaiger@prodigy.net>]  
**Sent:** Monday, September 26, 2016 11:02 AM  
**To:** 'SWEISS@rctlma.org'; 'TWHEELER@rctlma.org'  
**Subject:** Tim & Elizabeth McVicker

Dear Mr. Steven Weiss and Mr. Tim Wheeler,

I am familiar with Tim & Elizabeth McVicker's property at 17370 Via Abril, Murrieta, CA, and have personally visited and spent time with their huskies on multiple occasions in the last year. These beautiful dogs are loved and cared for meticulously like I have literally never seen pets cared for. Tim and Elizabeth love this breed and spend all of their non-working energies enjoying the dogs. I live in neighboring La Cresta and have dogs from the neighborhood showing up daily – not McVicker dogs, just typical other neighbor dogs always getting loose somehow – it happens. We have long rambling ranch fences. Indeed, that's how I met Elizabeth. My dogs had, on a very rare occasion for us, gotten out and I was worried sick. Elizabeth did not even know me but called to join me on the search for my dogs (after seeing the post on a neighborhood board); that is just the kind, concerned and loving heart that both Tim and Elizabeth have.

They bought and set up their property for their unique situation. There are multiple levels of fences to keep the dogs in, who have plenty of comforts and a larger running area in the most inner circle than most dogs. They have fresh water, pools, access to the house, shade, space to run, multiple beds, homecooked nutritiously selected meals, exercise, human companionship even when Tim and Elizabeth are off at work, even running television, toys...everything a dog could want and more.

What surprises me most about their home and property is how immaculate it is, even on visits that weren't previously arranged. I work tirelessly to keep my house clean with two dogs and I think Elizabeth and Tim's house is cleaner than mine! They are amazing, incredible, loving people who have been wrongfully attacked for this situation with their huskies, who they have had for years and love like family members.

I am also familiar with the Siberian Husky breed, as I own two and have owned many over the years. They very rarely bark or howl and are kind, gentle, loving and good with children. Their similar appearance to wolves can be intimidating to those unfamiliar with them but they are excellent family dogs.

Please feel free to contact me at 951-485-0013 or this e-mail. I am worried for their well-being due to the stress this has caused. I am very familiar with their situation and would be willing to be interviewed at any time.

Thank you for your consideration,  
Julie Schwaiger  
39200 Madre Vista  
Murrieta, CA 92562



## Wheeler, Timothy

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**From:** Cornelia <cbrentano22@gmail.com>  
**Sent:** Sunday, September 25, 2016 10:29 PM  
**To:** Wheeler, Timothy  
**Cc:** Gregory Brentano  
**Subject:** Public Health Hazard

Dear Mr. Wheeler,

Our property is located on Redonda Mesa, which is the highest peak overlooking the Tenaja Community Services District. We moved to Tenaja to be in a quiet, pristine and scenic nature setting overlooking the Cleveland National Forest and the Santa Rosa Ecological Plateau - and much of Southern California. We enjoyed our residence greatly until the residents on 17370 Via Abril started accumulating dogs; reportedly 18 Huskies so far. The dogs bark and howl for hours causing extreme noise pollution in an otherwise pristine and tranquil setting. Our residence sits approximately half a mile above 17370 Via Abril on top of Redonda Mesa with nothing in between to block the extreme noise from the barking and howling dogs.

The noise severely impairs our well being and we have lost the enjoyment of our property. The persistent and repetitive barking has become a potent stressor that affects us physically and emotionally. According to the World Health Organization, exposure to repetitive noise can result in increased blood pressure, hypertension, increased heart rate, ischemic heart disease, headaches, nausea, an altered blood flow, changes in blood viscosity and blood lipids, shifts in electrolyte balance, and elevations in gastrointestinal motility. In addition, multiple scientific reports document that noise pollution is associated with increased drug and alcohol use, increases in anxiety, stress, irritability, depression, aggression, interpersonal conflict, and sexual impotency. We suffer from sleeplessness due to the barking and feel highly stressed and irritable daily due to the noise pollution.

It appears that the dogs themselves act in a disturbed fashion; their barking is not the bark of a guard dog who alerts his owners but it is uncontrolled, repetitive hysterical barking, yapping, whining, and howling that persists for hours. Apparently the owners of the dogs are absent or are incapable of properly managing their dogs.

It has come to our attention that the owners of the dogs have applied for a Class II Kennel Permit and want to even increase the number of dogs. **We are vehemently opposed to that!** It is clear from the daily evidence that the owners are not able to control their dogs to prevent noise pollution and cannot responsibly manage their dogs. Not only should a permit be denied but the number of dogs should be strongly reduced. Tenaja is a community of private estates with an average price of \$1.5 million. Placing a Kennel into the heart of Tenaja would devastate the community and its peace and would put residents' health at risk.

After reviewing California Codes and the ordinance of the County of Riverside regarding noisy animals, it is obvious that the owners of 17370 Via Abril are in violation of Ordinance No. 878:

### ***ORDINANCE NO. 878***

The Board of Supervisors of the County of Riverside ordains as follows:

**Section 1. FINDINGS. The disturbance caused by excessive, unrelenting or habitual noise of any animal is disruptive of the public's peace and tranquility and represents an unwanted invasion of privacy of the residents of the unincorporated areas of the County of Riverside. At certain levels, the excessive, unrelenting or habitual noise of any animal may jeopardize the health, safety or general welfare of residents of the County of Riverside and degrade their quality of life.**

**Section 2. PURPOSE. It is declared to be in the public interest to promote the health and welfare of the residents of the unincorporated areas of the County of Riverside (the "County") by providing for an administrative proceeding for the abatement of such noisy animal nuisances, which abatement procedures shall be in addition to all other proceedings authorized by County ordinances or otherwise by law.**

**We ask that you deny the Class II Permit request and that you further investigate the conditions under which the animals are kept. Please reduce the number of animals kept at the residence. We and all the residents of Tenaja have a right to peace and tranquility and to maintain an environment that is not degraded by extreme noise disturbance. We ask that you take all necessary steps to stop the disturbance and protect our health.**

Please confirm that you received our message and please update us on the steps you will take to safeguard our health.

Sincerely,

Gregory Brentano  
Cornelia Brentano, Ph.D.

39340 Redonda Mesa Road, Murrieta, CA 92562  
951-304-3522

**Dr. Brentano's Books:** [Divorce: Causes and Consequences](#) & [Divorce Lessons: Real Life Stories and What You Can Learn From Them](#)

## Wheeler, Timothy

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**From:** Weiss, Steven  
**Sent:** Saturday, September 24, 2016 4:09 AM  
**To:** Wheeler, Timothy; Clack, Shellie; Cushman, Melissa; Perez, Juan; Hildebrand, John  
**Subject:** Fwd: Response to Scott Beckers' August 21, 2016 and September 23, 2016 emails

Sent from my iPad

Begin forwarded message:

**From:** Elizabeth McVicker <[emcvicker@mcvickersfamilylaw.com](mailto:emcvicker@mcvickersfamilylaw.com)>  
**Date:** September 23, 2016 at 6:55:31 PM PDT  
**To:** <[lbmpbeau@verizon.net](mailto:lbmpbeau@verizon.net)>, <[TrishWhite@verizon.net](mailto:TrishWhite@verizon.net)>, <[herbrp@mindspring.com](mailto:herbrp@mindspring.com)>, <[ice1042@verizon.net](mailto:ice1042@verizon.net)>, <[tomlins2@msn.com](mailto:tomlins2@msn.com)>, <[hwajr@hotmail.com](mailto:hwajr@hotmail.com)>, <[bobeinman@aol.com](mailto:bobeinman@aol.com)>, <[AUSLINSLEY@aol.com](mailto:AUSLINSLEY@aol.com)>, <[cbell@TNC.ORG](mailto:cbell@TNC.ORG)>, <[BBensyl@aol.com](mailto:BBensyl@aol.com)>, <[stevensclan1\\_64@msn.com](mailto:stevensclan1_64@msn.com)>, <[gdhaden@verizon.net](mailto:gdhaden@verizon.net)>, <[rpatras@mwdh2O.com](mailto:rpatras@mwdh2O.com)>, <[ttomlinson@castlecooke.com](mailto:ttomlinson@castlecooke.com)>, <[tenajayaya@aol.com](mailto:tenajayaya@aol.com)>, <[egreer@coastinet.com](mailto:egreer@coastinet.com)>, <[ttomlinson@alberhillranch.com](mailto:ttomlinson@alberhillranch.com)>, <[egreer@SanJacinto.k12.ca.us](mailto:egreer@SanJacinto.k12.ca.us)>, <[tina.campbell@staples.com](mailto:tina.campbell@staples.com)>, <[kbutler@tenantimprovement.net](mailto:kbutler@tenantimprovement.net)>, <[drkimes@verizon.net](mailto:drkimes@verizon.net)>, <[ericcurtis@cox.net](mailto:ericcurtis@cox.net)>, <[nvbacas@aol.com](mailto:nvbacas@aol.com)>, <[BarbaraBowers@topproducer.com](mailto:BarbaraBowers@topproducer.com)>, <[watts0@msn.com](mailto:watts0@msn.com)>, <[rlockwood8@gmail.com](mailto:rlockwood8@gmail.com)>, <[goffman48@msn.com](mailto:goffman48@msn.com)>, <[tiff.5mranch@gmail.com](mailto:tiff.5mranch@gmail.com)>, <[hcollinslaw@aol.com](mailto:hcollinslaw@aol.com)>, <[firstwaterlady@verizon.net](mailto:firstwaterlady@verizon.net)>, <[nicolerivera@cox.net](mailto:nicolerivera@cox.net)>, <[JFernandez@cvwd.org](mailto:JFernandez@cvwd.org)>, <[jodiesrancho@gmail.com](mailto:jodiesrancho@gmail.com)>, <[jmwitous@aol.com](mailto:jmwitous@aol.com)>, <[production@ashleyvideo.com](mailto:production@ashleyvideo.com)>, <[anne@teamway.com](mailto:anne@teamway.com)>, <[lynnbinkley@verizon.net](mailto:lynnbinkley@verizon.net)>, <[Candjlonestar@aol.com](mailto:Candjlonestar@aol.com)>, <[gary@ddaccpa.com](mailto:gary@ddaccpa.com)>, <[evansestate@gmail.com](mailto:evansestate@gmail.com)>, <[TR42620@aol.com](mailto:TR42620@aol.com)>, <[gvonachen@yahoo.com](mailto:gvonachen@yahoo.com)>, <[crgpatt@aol.com](mailto:crgpatt@aol.com)>, <[stonewallsaddles@yahoo.com](mailto:stonewallsaddles@yahoo.com)>, <[gracerancho1@gmail.com](mailto:gracerancho1@gmail.com)>, <[joannebjuha@gmail.com](mailto:joannebjuha@gmail.com)>, <[candycanelori12@verizon.net](mailto:candycanelori12@verizon.net)>, <[joanmattman@msn.com](mailto:joanmattman@msn.com)>, <[lindawaddell04@gmail.com](mailto:lindawaddell04@gmail.com)>, <[menolake@verizon.net](mailto:menolake@verizon.net)>, <[A7wildflower@aol.com](mailto:A7wildflower@aol.com)>, <[estydale@yahoo.com](mailto:estydale@yahoo.com)>, <[jstambersky@gmail.com](mailto:jstambersky@gmail.com)>, <[sfoote@ev1.net](mailto:sfoote@ev1.net)>, <[cynthiacornelius@msn.com](mailto:cynthiacornelius@msn.com)>, <[Mikeandchrissyrickson@yahoo.com](mailto:Mikeandchrissyrickson@yahoo.com)>, <[Dcarter745@aol.com](mailto:Dcarter745@aol.com)>, <[dbassett@earthlink.com](mailto:dbassett@earthlink.com)>, <[crazy.skiers@verizon.net](mailto:crazy.skiers@verizon.net)>, <[gramssmurf@gmail.com](mailto:gramssmurf@gmail.com)>, <[RhondaNB@aol.com](mailto:RhondaNB@aol.com)>, <[tdcdesigns@verizon.net](mailto:tdcdesigns@verizon.net)>, <[gouv@roadrunner.com](mailto:gouv@roadrunner.com)>, <[ferris.tom@gmail.com](mailto:ferris.tom@gmail.com)>, <[gibson@verizon.net](mailto:gibson@verizon.net)>, <[pbrennan@cdfa.ca.gov](mailto:pbrennan@cdfa.ca.gov)>, <[ljsajc90@yahoo.com](mailto:ljsajc90@yahoo.com)>, <[wefranks@verizon.net](mailto:wefranks@verizon.net)>, <[bclaypool@montagehotels.com](mailto:bclaypool@montagehotels.com)>, <[debbrooks1@aol.com](mailto:debbrooks1@aol.com)>, <[bmlbml1@verizon.net](mailto:bmlbml1@verizon.net)>, <[stan@westernavionicsinc.com](mailto:stan@westernavionicsinc.com)>, <[hamurf9@gmail.com](mailto:hamurf9@gmail.com)>, <[marilyn@oaktreerg.com](mailto:marilyn@oaktreerg.com)>, <[janfeyer@gmail.com](mailto:janfeyer@gmail.com)>, <[meccompany@aol.com](mailto:meccompany@aol.com)>, <[cathy.baca@gmail.com](mailto:cathy.baca@gmail.com)>, <[dajacobs248@verizon.net](mailto:dajacobs248@verizon.net)>, <[TTomlinson@SherwoodDC.com](mailto:TTomlinson@SherwoodDC.com)>, <[bergerblt@cox.net](mailto:bergerblt@cox.net)>, <[donnacutner@gmail.com](mailto:donnacutner@gmail.com)>, <[mocalisca@gmail.com](mailto:mocalisca@gmail.com)>, <[Grimespc@gmail.com](mailto:Grimespc@gmail.com)>, <[hwajr@hotmail.com](mailto:hwajr@hotmail.com)>, <[michaeljuha@gmail.com](mailto:michaeljuha@gmail.com)>, <[pietro3@mac.com](mailto:pietro3@mac.com)>, <[gramssmurf@gmail.com](mailto:gramssmurf@gmail.com)>, <[debnatale@earthlink.net](mailto:debnatale@earthlink.net)>, <[marnelle.ross@gmail.com](mailto:marnelle.ross@gmail.com)>  
**Cc:** <[district1@rcbos.org](mailto:district1@rcbos.org)>, <[RMagee@rcbos.org](mailto:RMagee@rcbos.org)>, 'Larry Myers Esq.' <[ldmyersesq@hotmail.com](mailto:ldmyersesq@hotmail.com)>, 'Lisa Merritt' <[lmerritt@southlandengineering.com](mailto:lmerritt@southlandengineering.com)>, <[amartin@southlandengineering.com](mailto:amartin@southlandengineering.com)>, "'Weiss, Steven'" <[SWeiss@rctlma.org](mailto:SWeiss@rctlma.org)>, <[timothygmcvicker@gmail.com](mailto:timothygmcvicker@gmail.com)>  
**Subject:** RE: Response to Scott Beckers' August 21, 2016 and September 23, 2016 emails

**My name is Elizabeth McVicker. My husband's name is Tim McVicker. I have been a California licensed attorney for the past 23 years. I am making this**

**statement in the hopes that you will consider my statements below to be truthful and honest.**

**This is my formal response to our neighbor, Scott Becker's email sent to you today, September 23, 2016, and his email sent from August 21, 2016. All of his emails contain contrived statements. Scott shoots out his emails as if they are bullets. They are sent so repeatedly that I barely have time to keep up with him before he shoots out another one. Scott's repeated pattern of sending these types of messages have hurt me and my husband profusely. We are mentally, emotionally, spiritually, physically and financially drained.**

**I went to the Tenaja Community Services District and was given the same list of email addresses that was given to Scott Becker. So much for the private dissemination of our confidential information.**

**Scott has been bullying Tim and me and YOU the residents of Tenaja and neighboring communities for the last 19 months.**

**Two months prior to our closing escrow on our property in July, 2015, Scott refused a meeting with my husband and Tim to address his concerns regarding our intention to have our personal dogs live with us on our property legally.**

**Scott has never met our personal husky dogs or discussed with us our application for a Class II kennel license with the County of Riverside to house our personal husky dogs at 17370 Via Abril, Murrieta, CA. We live right next door to Scott. He and his wife Sarina have been welcome to come meet with us at any time. They have never asked.**

**Scott is insinuating that having Siberian husky dogs in our community will destroy the serene community we all call home. This is NOT true.**

**Contrary to Scott's statement, our dogs will not all be crammed into a 480 square foot kennel. Scott was present at the last administrative hearing with the County of Riverside on August 29, 2016, when I told the hearing officer our personal dogs live in our home on a full-time basis and will continue to live with us in our home as our personal pets. We are planning to construct an additional 480 square foot building with pre-existing plans for insulation, air conditioning and dog tv, for their additional pleasure. 6 dogs sleep on our bed at night for heaven's sake with Tim and me, with many under the bed and others surrounding the bed on pillows. We cook them daily home cooked meals and provide plenty of potable water. Their wants and needs are fully satisfied at all times.**

**I have invited all residents of Tenaja in the past to come and meet our dogs. Do not rely on SPECULATION AND IMAGINATION of Scott Becker the fictional storyteller.**

**For Scott to insinuate that our dogs should not have to spend “their entire life in a kennel” is Scott trying to get a jerk reaction from you. He knows fully well that our dogs are our personal dogs. Since Scott refused to come to our house to meet each one of our individual dogs, he has no clue what he is talking about. Had Scott even bothered to ask for their names, or photos, we would have gladly given them to him instead so he could start processing in his mind that each of our dogs is a living being with individual personality traits and is essentially beautiful. It would have been a lot simpler had he even asked to come to our house to meet them. Rather, Scott won’t accept the truth. We have furnished identifying information of our dogs to the Department of Animal Services and to the County of Riverside on numerous occasions. A representative from the County and from the Department of Animal Services have been to our home for a full tour and inspection and sit down to discuss our pets living with us and our application for a lawful license.**

**Out of thin air, Scott has projected that our dogs will be “condemned” if they live with us on our property. In my personal opinion, I think that our personal dogs spending the rest of their lives on a 6.2 acre property is quite luxurious for them who as fortunate as we are to live together as a family. That is clearly not an indication of suffering of any kind. Honestly, I don’t know what planet Scott lives on by making such a hateful and discriminatory statement.**

**Scott the insurance broker is counseling the community with regard to what type of insurance we need or, to use his words, is unattainable for us. Scott is not our insurance agent and never will be. I am not even going to speculate on whether or not Scott personally has potential liability exposure for his 18 horses. The northern side of Scott’s property is not even fenced, and he just constructed a very lavish swimming pool. Both pose a danger for wildlife and coyotes alike. We paid for the fencing on the westerly portion of Scott’s property. Scott’s horse corrals do not have proper setbacks and are much too close to our property.**

**Scott Becker bought his property in 2006. As many of you know, he has many many many horses. The County did not even know where he has been putting all of his horses, up until this year, when he applied for a license for his 4,000 SQUARE FOOT BARN. Scott must think that HIS 18 horses do not defecate or urine, because he has stated that our 18 dogs’ defecation and urination pose “numerous environmental concerns.” Dogs are considerably smaller than horses, which is just another note to self I am trying to get across to you the intelligent, logical, sharp residents of Tenaja.**

**Scott stating that dogs “will attack small, defenseless animals including children” is hogwash. I can say that his horses can “attack small, defenseless animals including children” too, and why shouldn’t I especially when he makes me expose myself to you as “mamma bear” to protect my children! Instead, I would have loved the opportunity to meet you at a social gathering or in the neighborhood or just to share a cup of tea at your home.**

**Scott states that our dogs have a “lack of attention.” That is another load of rubbish intended to infuriate you. These dogs receive CONSTANT attention 24 hours a day. They are all loved and individually cared for. We have full time staff consisting of two employees whose job is to shower them with love and attention. I am self-employed and spend hours round the clock with the dogs and Tim spends 100% of his down time (when he is not a working American getting a pay check) with them. Scott knows this. Many of our personal friends have told us that they want to be reincarnated as our personal dogs.**

**Scott states that “every reference book on Huskies agree, without proper care they will howl and become destructive.” I understand that to be more rubbish. I am pointing this out to you to demonstrate once again that Scott is COMPLETELY and 100% trying to spark your attention, and obtain your blind opposition to us. I can seriously and honestly say that our dogs are cared for in a superb manner. How dare he state otherwise. He has no perception into the truth and does not care to know, because the truth is the complete opposite of his objective to destroy my husband, me and our dogs.**

**One of the positive consequences of showering any dog with love, affection, constant care, and making them a human companion, is the dog becomes obedient and returns the favors bestowed upon them with unconditional love. NEVER are our dogs HOWLING as has been insinuated by Scott. We have the audio to prove ANYONE who has said otherwise and we WILL prove it.**

**Once again, Scott’s imagination has run wild when he says that “we’ve all seen the commercials on television where animals must be ‘rescued’ from cages on private property due to neglect.” This loathsome statement is the epitome of the infuriation which Scott has artificially inseminated in our community.**

**Believe me when I tell you that many neighbors have come to me personally to say that they feel what Scott has done is unfair, loathsome and uncalled for. I am telling you that it is uncivilized, indecent and inhuman.**

**Scott will face legal consequences for these types of statements. Our dogs do not live in cages. In fact, there are no cages on our property, and his clear bird's eye view of our property demonstrates that he KNOWS this. We support the ASPCA and all animal rights groups and are opposed to all violence and neglect caused to dogs. My husband Tim is a very passionate husky lover who will put his own life before the life of any husky.**

**Scott says that dogs deserve a family. Scott told us that his dog who is now dead lived in his garage. Our dogs are our family and live in our home, which smells good, is clean and is 100% for the dogs to live and breath in with us there to take care of them.**

**Scott also told you that a kennel II operation is a "commercial use of the property" which is contrary to how the County of Riverside defines a kennel II, and is contrary to the specific Plot plan which we have submitted to the County stating that the permitted use is for the property owner's own personal dogs not open to the public for adoption, rescue, or commercial purposes.**

**Scott states that the dogs have "caused numerous disturbances, all well documented by Animal Control, Code Enforcement and Notarized Testimonials by surrounding neighbors." Scott did not tell you that HE PERSONALLY lodged THE Complaint with Animal Control, and the end result of THE Animal Control hearing was that our dogs DO NOT CAUSE ANY NUISANCE and DO NOT BARK. Scott did not tell you that HE PERSONALLY lodged the complaints with Code Enforcement, not once, but TWO times against us, falsely alleging that we were grading our Blue Line Creek, that we were living on a trailer parked on our property, that we had exposed electrical wires, that we were chopping down oak trees, that we were conducting a commercial rescue business, etc. Scott even asked the Code Enforcement officer to order us to put a grate alongside his property line because he has a gully, which we paid for. All of Scott's statements regarding Code Enforcement and Animal Control are FALSE and have been THROWN OUT by the County. Scott did not tell you that he PROCURED 100% of the Notarized Testimonials by inviting a notary to his house and sending out flyers inciting terror in our community which included notification that a notary would be at his house with luncheon served on March 13, 2016, and April 12, 2016.**

**Scott has also NOT DEFINED to anyone at the County of Riverside Planning Department, to our personal attorney or to us what is the so called "Tenaja Environmental Concerns Asssocation," of which he calls himself a "staff" member. It seems to me that this is another concoction designed to deceive the public at large and deprive Tim and me of our civil rights.**

**Scott used the Tenaja CSD on the March 2, 2016 date he was nominated a public official to complain about us. I had to make a public statement at the Tenaja CSD the next month on April 6, 2016 in opposition to what he said. Tim and I have attended every single Tenaja CSD meeting since Scott's nomination. Not once has he even acknowledged our presence yet alone speak to us. In August, Scott and his attorney went to the Tenaja CSD architectural committee during the week when the Tenaja Community Services District's attorney Hugo Anderson was on vacation. Then, Scott's personal attorney suggested that she write up a letter stating that Tim and I are operating a commercial business, which was subsequently unanimously voted upon by Ron McDaniels (whose wife went to high school with Sarina Becker), and Joan Murphy who previously lashed out to me for playing the "tit for tat game." When I heard the tape from the meeting, I was deeply saddened to hear the jubilation emanating from the 4 rogue architectural control committee members when the statement was made that they were going to file a lawsuit against us. How LOW can one go to hurt another?**

**Honestly, I really know of no other way than to openly express myself just as Scott has been doing for months and months. We are at a disadvantage because we are new residents in the community and have had no opportunity to be social with you due to the castigation caused by Scott. I don't play tit for tat and never have.**

**When I attended the Tenaja board meeting on September 7, 2016 and asked to speak about the letter sent to us and when I asked how the Tenaja CSD determined we were operating a commercial business from our home, WHICH IS ANOTHER LIE, I was shut down and told it was not the time or the place to discuss. Instead Mr. McDaniels made a motion that the attorney Hugo Anderson be consulted on how the public can voice their concerns about letters or reprimand received from then Tenaja CSD. I remind you that Hugo did not approve of the letter originally sent because according to Arlene Anderson, he was on vacation. The Temaja CSD board members (other than Ron McDaniels and Scott Becker) did not even know about the letter sent to us and the County and had not approved of the letter either.**

**Scott's statement that dogs should not be "treated as herds to be penned in mass numbers" is another statement taken from Scott's rewrite of Alice in Wonderland. We live on 6.2 acres of property. We bought the land with the dream that our dogs would be able to have runs for exercise and enjoy the land just as much as horses and other animals do.**

**Scott has NO EVIDENCE to support what he has stated. As an experienced litigator, I have NEVER SHOT FROM THE HIP. Scott is shooting from the hip. His statements are mere statements, based on speculation.**



**Gladly we have applied for a lawful kennel permit to enable us to keep our personal dogs on our property. The word "kennel" is the word given to our license, just as the word "stable" is used to house horses. All stables are not commercial. Our kennel is NOT commercial. All of our dogs are spayed and neutered. Should you come to meet our dogs you will see that they are loved, well fed, and nurtured. We kiss our dogs on the lips and hug them affectionately. While you may or may not kiss your dogs on the lips, we do, BUT we should NOT be judged for that or discriminated against. You also should not judge us for loving dogs as much as we do.**

**If given a lawful kennel license, Tim and I will make a pact with the County and the community to follow all laws and regulations and be responsible toward all of our dogs, whether it be 1 or 25.**

**Scott has reached out to you to state "we need to make sure our CC&Rs are adhered to or we will find additional commercial uses springing up and destroying the rural, quiet environment we have come accustomed to." Thanks to Scott Becker he has paved the way for every homeowner to ensure that he/she is conducting a lawful activity on their homes. Otherwise, beware that Scott the new Sheriff in town will come after you next.**

**I need to point out that we do not live in the communist country of Tenaja. We live in the United States of America, a county which provides us with guaranteed constitutional rights. The laws of our County, State and government are designed to protect us from any disturbances and from unlawful interference. I know it may seem difficult to sort fact from fiction when you hear from Scott, but I implore you to imagine everything differently.**

**As has been stated in a multitude of different ways by Scott on numerous occasions, Scott informs you that our dogs "escaped" the property killing chickens and attacked livestock and held one neighbor "hostage". We have CONSISTENTLY AND PERSISTENTLY DENIED these statements, which are UNTRUTHS. We reserve the right to vindicate our rights as citizens, as human beings and as real people who have been hurt over and over and over each time Scott makes a loathsome statement about us. For now, the official report from Animal Control upholds the truth which is CONTRARY to all of Scott's statements, and the statements which other 3<sup>rd</sup> parties have promulgated in the community.**

**Kelly Smith publishes a very wonderful and well respected newsletter entitled "La Cresta & Plateau News." Her emails always contain reports of animals escaping properties, etc. She is to be praised for her decent and humane way of enabling neighbors to assist neighbors in time of need. Our animals are well contained and confined to our home. We consider that the safety of our animals of paramount concern to their welfare.**

**We are very respectful of you, our neighbors. Please do not for a minute think otherwise.**

**On a final note, I would like to state that I am a very private person until recently. It does not give me pleasure to have to air out and disinfect the dirty laundry that Scott has been sending your way.**

**Instead of hitching a ride by putting your thumb up as Scott stated in a tongue and cheek manner, please put your thumb down to Scott Becker.**

**Very truly yours,**

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## Wheeler, Timothy

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**From:** Susan Frommer <firstwaterlady@verizon.net>  
**Sent:** Monday, September 26, 2016 9:25 AM  
**To:** Wheeler, Timothy; Weiss, Steven  
**Cc:** Frommer Susan  
**Subject:** kennel hearing today

Hello,

I have been out of town and could not remember if I had the sent the following, so I am sending just in case.

The following are further thoughts on the McVicker Kennel application:

1. In the first hearing, the testimony from those supporting the granting of the application was heartfelt and very emotional. No doubt the party in question loves their dogs. But, that is irrelevant to the issue. They knew, or should have known, about the County limit of four dogs per household yet they brought in more dogs in flagrant disregard of the existing law/ordinance.

2. Tenaja has CC&R's for a reason just like any other property owners association and they deserve respect. We want to keep our community a desirable place to live and keep our investment in our properties from degrading. By their actions, the requesting party has surely already devalued their neighbor's properties in my opinion. Should these neighbors wish to sell, Real Estate disclosure laws would mandate that they disclose the presence of such a facility.

Be honest with yourself. If you were searching for a home to purchase in our area, would you invest upwards of high hundred thousands to low millions knowing that the neighbors were running a kennel with up to 24 dogs on their property even if they were not huskies?

3. Approval of this facility would open the floodgates for other undesirable enterprises to make the same argument for approval. Perhaps a pot-bellied pig rescue might be in order or an exotic bird facility so neighbors could listen to numerous squawking parrots or cockatoos. You can easily see where this might be headed.

4. I don't know if you have visited our Tenaja Valley in person. If you have, you would note how generally quiet it is aside from a passing auto or, as noted next, human conversation. If you stayed long enough to really hear, you would notice that due to the unusual topography, noise travels great distances. From my home I can clearly hear conversations from the ranch at the bottom of my hill and also from my neighbors on the neighboring hills. Human conversation does not annoy. Barking dogs do.

5. I think it should be strongly noted that, with the exception of the owners of the subject property, not one of the speakers in the pro camp to my knowledge actually live in Tenaja. The caretakers have a fiscal interest in seeing this kennel permit approved. The others, due to the love of this breed, evidently feel that their love trumps the peace and quiet and financial investment that existing homeowners have made in their properties. I respectfully disagree.

For these reasons, in addition to others expressed at the first hearing, in solidarity with my neighbors who will be most affected by this kennel, I urge you to deny this Class II Kennel Permit.

Susan Frommer  
Tenaja resident

Terry and Frank Minnameyer

17402 Via Abril

Sept. 26, 2016

Many arguments have previously been made regarding this case so today I simply want to target my primary concerns and encourage Liz and Tim to acknowledge that we have valid concerns and we're NOT evil neighbors, as they have stated in their website. This conflict has been greatly intensified because the McVickers have steadily increased the number of dogs, clearly disregarding the communities concerns. All the neighbors we have met are kind and reasonable people. Most people would not volunteer to live next to a 25 dog kennel, especially with Siberian Huskies that are rated the 3<sup>rd</sup> or 4<sup>th</sup> most dangerous breed.

We purchased our land before Tim and Liz were here and we presumed that our CC&R's would protect us from something like a 25 dog kennel next door. During our process of obtaining a building permit, Riverside County made us follow every guideline from Tenaja Community Services District to the letter such as a special TCSD setback variance which differed from the county's requirement, the Architectural Committee had to approve us, we had to get variance letters signed from all our neighbors and we had to get a letter of approval from TCSD. All of our neighbors who built homes here had to adhere to the CC&R's and the county of Riverside enforced this so none of us were allowed to continue any type of construction until we followed what TCSD demanded. We would expect the McVickers to be held to the same standard of scrutiny by the county in regard to our CC&R's.

Many mornings we are awakened by the huskies at around 3 a.m. which is when Tim gets up. This wakes up many other animals in the community and this interferes with a good night's sleep. During the day, we hear dog fights when they're released in groups from the house.

At the previous hearing Tim approached Frank wanting to know why we decided to oppose the permit. This was in the lobby area. Tim said they would come at us because of our change of position and Liz repeatedly told him to back away. Scott Becker came over to offer assistance when he saw the confrontation. Frank told Tim that he came to the hearing to listen but if Tim continued on, Frank said he would sign up to speak. At that point, Tim backed away. 5 days before this hearing, we received a threatening letter from the McVicker's attorney in regard to fence issues and future use of our property which would, according to them, violate our CC&R's. Our house is not even built yet and this attorney is threatening that we might be in violation of the CC&R's in the future. It's strange that they don't respect the CC&R's but use them to bully us. The tone of the letter is clearly meant to silence us at this hearing. This is the kind of behavior that only fuels the fire. I am saddened that this tact was taken.

I respectfully request that you deny this project as it will continue to be an unacceptable nuisance to our community