

Flores, Silvia

From: Schmidt, Ursula
Sent: Friday, September 30, 2011 1:11 PM
To: Flores, Silvia
Subject: Correspondence SUPPORT SINGLE-USE BAG ORDINANCE

Hi Silvia

The correspondence below came in today to me - can we post this and provide copies for the agenda packets?

Thank you.
Ursula

----- Forwarded message -----

From: Phillip Kobylanski <pk@valhallapix.com>
Date: Thu, Sep 29, 2011 at 5:45 PM
Subject: SUPPORT SINGLE-USE BAG ORDINANCE
To: "bbogaard@cityofpasadena.net" <bbogaard@cityofpasadena.net>
Cc: Gale Anne Hurd <gah@valhallapix.com>, "kjames@healthebay.org" <kjames@healthebay.org>

Dear Mayor Bogaard,

As a business owner in the City of Pasadena, I write to express my strong support of the City's proposed single-use carryout bag ordinance that would ban plastic carryout bags at all supermarkets and other grocery stores, pharmacies, drug stores, convenience stores, food marts, and farmers markets and would place a charge on the issuance of recyclable paper carryout bags.

I am concerned with the environmental and economic impacts of plastic bag pollution in Pasadena and other parts of the County. Plastic bags litter many of our streams, neighborhoods, and streets. What starts out as litter on the street can travel many miles to the beach and impact our marine life. Cities throughout California spend millions of dollars every year and countless staff and volunteer hours, cleaning up marine debris that includes a great deal of plastic bags.

We can no longer recycle our way out of this problem. Despite efforts to expand recycling programs, less than 5% of single-use plastic bags are currently being recycled. The rest of these bags end up in our landfills or as litter, clogging stormdrain systems, and making their way to our waterways and ocean. Plastic lasts for hundreds of years in our environment and may never biodegrade in the ocean. As a result, it poses a persistent threat to wildlife. Over 267 species worldwide have been impacted by plastic litter, including plastic bags.

Paper bags are not a viable alternative to plastic bags. Paper bag production contributes to deforestation, greenhouse gas emissions, and waterborne wastes from the pulping and paper making process. Even compostable plastic bags made of plant-based sources have not proven to degrade in the ocean.

Los Angeles County, Long Beach, Calabasas, Santa Monica, Malibu, Manhattan Beach, San Francisco, San Jose, Marin County, Fairfax, Santa Cruz County, Santa Clara County and Palo Alto have banned plastic bags and dozens of other cities in California are considering this approach.

The City of Pasadena has a critical role to play in becoming a true leader in eliminating plastic bag waste and preventing the proliferation of plastic pollution in our communities. Thus I urge you to move forward a single-use plastic bag ban.

Sincerely,

Gale Anne Hurd, Owner

Vertical Wine Bistro

Flores, Silvia

From: Kenny or Debbie Ayala <kennydeb@me.com>
Sent: Sunday, October 02, 2011 4:58 PM
To: Margaret McAustin; Fuller, Margo
Cc: Schmidt, Ursula
Subject: FEIR

Hi Margaret and Margo,

We have received notice of the public hearing taking place tomorrow, Oct 3 on the ammending of PMC to prohibit single use plastic carryout bags. We have some thoughts, but will likely not be able to attend tomorrow's meeting.

While we support the idea of reusable bags (and we utilize our own reusable bags a majority of the time) we do not support the amendment as it is written.

Who wins with this amendment? We now have to pay for a bag that used to be provided without cost. Where does that money go? More profit for the grocery stores or retailers? Is there a green fund?

Has the impact on low income families been considered? They are not, like many of us, popping open their trunk at Trader Joes to get their bags out. They are the families that take the cart from the grocery store; is it likely that they will NOT remember to bring their reusable bags. Then, they have the extra burden to pay for the bags, which can only mean less food on their tables.

I know we will *not* contribute to paying for bags(simply on principle). That means if we don't have enough bags, we will buy less. Which will lead to more grocery store visits, using more gas and thus defeating the "green" goal of such ammendment. Or why wouldn't we just spend our money in an neighboring city, not having to deal with these issues at all? We feel by putting the burden of purchasing bags on the citizens of Pasadena, retail will suffer.

This ammendment seems to be all punitive. Is there any incentive? I know that Target gives a five cent credit for bringing your own bag and Ralphs gives some kind of "points" for bringing a reusable bag.

The choice to use or not use plastic bags should be at the discretion of the consumers. Not a municipal code. People choosing to utilize reusable bags because of their conscienceness of environmental factors should not be dictating to others what they should be doing.

We feel like we are "average" citizens of this city. We appreciate all of the great attributes and deal with the not so positive aspects. Knowing Pasadena likes to be a leader in these type of issues, unfortunately we beleive this ammendment will pass. We hope that it is because it will be thought to be a good thing for the residents, not simply because the city is attempting to be on a green track. Of the pollution on the streets of Pasadena, most does not appear to be plastic bags, but more wrappers, plastic bottles and dog waste.

Thank you for hearing our concerns.

Kenny and Debbie Ayala

Flores, Silvia

From: Carolyn Meredith <carolyn_meredith00@yahoo.com>
Sent: Sunday, October 02, 2011 4:06 PM
To: Schmidt, Ursula
Cc: McAustin, Margaret; Fuller, Margo
Subject: Support of Plastic Bag Ban

Dear Ursula;

I wish to add my voice to the many who have written to support the proposed ordinance to ban the use of single use carryout plastic bags.

I believe that the staff report explains very clearly the negative environmental impacts that single use plastic bags have upon the environment as well as the study of alternatives to a ban and the ultimate need to change personal habits.

The City has studied this issue for several years so I believe the proposed ordinance is well thought out and minimizes any presumed difficulties that retailers will potentially face. In fact, many, many retail establishments already have an incentive in place for customers who bring reusable bags and many also have reusable bags for sale at a modest price; places such as Target and Bed, Bath and Beyond for example, not just "environmentally conscious" establishments such as Trader Joe's, Whole Foods and Sprouts.

I, personally, have used reusable bags since 1989 when I received a well made canvas bag at a national recycling conference. That bag is still in use. Many, many residents have transitioned to reusable bags on their own so the habit has already been widely adopted. Add to that that precedent has been set by Los Angeles County and several other California cities. Pasadena has reliably been at the forefront of environmental practices so let us not fall behind at this critical point.

Sincerely,

Carolyn Meredith
1933 Brigden Road
Pasadena 91104

Best regards,
Carolyn

JOE PARDEE

2245 E Colorado Blvd Suite 104, Pasadena, CA 91107-3651

ph 626-398-0087

joepardee@sbcglobal.net

Ursula Schmidt, LEED AP
Sustainability Affairs Manager
City of Pasadena
626-744-6729

October 3, 2011

Attached is a petition supporting the ban on single use plastic bags with additional signatures from Neighborhood Church Members to be included with the petition and signatures delivered Friday.

Joe Pardee

626-398-0087

A handwritten signature in cursive script that reads "Joe Pardee".

**10/03/2011
Item 8**

**The 7TH Principle Environmental Action Group of
Neighborhood Unitarian Universalist Church
Political Action Committee Working Group**

SINGLE USE PLASTIC BAG BAN

September 2011

The undersigned members and friends of Neighborhood Church want to ask the City of Pasadena to join with us and with the environmental community in supporting a ban on single use plastic bags provided by stores and markets throughout the city.

Whereas: These single use plastic bags have an extremely detrimental effect on our environment. Their affect is far reaching, much more than simply creating waste and litter. They wind up in waterways and many eventually end up in the ocean where they break down into smaller and smaller pieces of plastic but do not decompose into simpler compounds and return to earth's environmental cycle.

Whereas: These plastic bags and their smaller remnants are mistaken for food by much of the aquatic life and consequently are devastating to these populations.

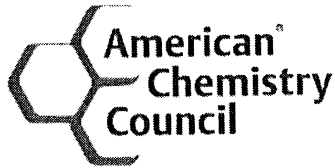
Whereas: Even the bags that do not make it to the ocean have been found to be dangerous to animals and birds on land. One photo from an environmental group is that of a tortoise with a plastic bag protruding from its mouth. Fortunately the tortoise was rescued by that group and the bag removed but this is an exception rather than the rule and most of these animals die an agonizing slow death.

Therefore: We request that the Council members vote to support aquatic and wild life and a sustainable earth by voting for a ban on single use plastic bags and the charging of a fee for paper bags to promote the use of reusable bags for transporting goods from store to home.

We the undersigned members of Neighborhood Unitarian Universalist Church and of the community of the earth request this action for the protection of the environment and in support of a sustainable earth.

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 and of the community of the earth request this action
 for the protection of the environment and in support of a sustainable earth.

NAME:	ADDRESS:
Nancy Luth	1725 Knollwood Dr. Pasa Ca 91103
Ray Luth	"
Marianne Dyde	1535 Arroyo View, Pasa CA 91103
Frank Dyde	" " " "
Lawrence Spencer KATE HARLAN	704 HEATHERSIDE RD PASADENA CA 91105
Kate Harlan	524 N CATALINA AVE, PASADENA 91106
Bonnie Blaster	2474 E Mountain St PAS 91104
John Orell	1370 Chamberlain Rd 91103
Jan Pender	2245 E Colman Blvd, 91107



October 3, 2011

The Honorable Bill Bogaard
Mayor, City of Pasadena
100 N. Garfield Avenue, Room S228
Pasadena, CA 91109

Re: Agenda No. 8 – City Council Discussion Concerning Carryout Bags

Dear Mayor Bogaard:

It is our understanding that the City of Pasadena City Council is considering whether to direct city staff to pursue development of an ordinance to ban plastic retail bags. By way of background, the American Chemistry Council (ACC) is a national trade association of manufacturing companies, including those domestic producers of fully recyclable retail plastic bags.

ACC members support efforts to reduce bag litter and disposal and it is for that reason we have been working to promote and enhance the recycling of not only plastic bags but other plastic packaging as well. ACC is in full agreement with the intent of this discussion but feel an outright prohibition on these recyclable products is unnecessary. In many cases, suggestions to ban recyclable plastic bags often overlook important, yet unintended environmental impacts. Furthermore, these ordinances have the potential to impact consumers economically, especially for those employees who work at bag manufacturing facilities in Los Angeles County.

As you and your colleagues discuss this issue, ACC respectfully requests that you consider several policy issues and potential alternative approaches. Allegations that plastic bag and film recycling is failing are false. At the request of the Los Angeles County Public Works (LACPW) Department, ACC recently commissioned a study by Moore Recycling Associates, Inc. to: **1)** quantify the pounds of plastic bags and film collected for recycling from material recovery facilities (MRFs) in the County from 2007 through 2009; **2)** delineate the percentage of plastic bags collected versus total film; and **3)** determine how much of the total film was from the unincorporated areas of Los Angeles County.

- The study reveals a 39 percent growth in the recycling of plastic bags and other film plastics.
- The recycling of plastic bags alone grew 62 percent during this period suggesting that residents have become accustomed to putting their plastic bags into their curbside recycling bins.
- In the unincorporated areas of the county, curbside collection of plastic bags and film increased by 40 percent from 2007 to 2009.

In many communities around the country, ACC has worked in partnership with retailers, public agencies and other stakeholders to promote the recycling of plastic bags and wraps.

In addition to the recycling opportunities, we believe that other policy and legal issues should also be explored, including:

- Whether such an ordinance would be subject to the California Environmental Quality Act (CEQA) and thus an Environmental Impact Report (EIR) would need to be completed before final adoption of the ordinance.
- If a fee is proposed on alternative products such as paper bags (in an effort to reduce the environmental impacts of those products), would such a fee be subject to the provisions of Proposition 26?
- Whether an analysis has been conducted as to the potential consumer cost impact for residents that may now be forced to pay for paper bags, especially those that may be struggling to make ends meet?



- Whether such an ordinance would require city expenditures to implement, monitor and audit the program, especially as it relates to a city mandated per bag charge?

In our view, bag litter and disposal can be reduced by encouraging consumers to use reusable bags and to recycle their plastic bags. These activities can be undertaken through partnerships between industry, retailers, local governments, recyclers and environmental organizations all without the burden of additional regulation, unintended environmental impacts, or negative economic impacts on consumers.

Thank you in advance for the opportunity to provide these comments and we would welcome the opportunity to discuss potential recycling opportunities in the city of Pasadena. If you or your colleagues have any questions or comments, please do not hesitate to contact me at 916-448-2581 or via email at ryan_kenny@americanchemistry.com

Sincerely,



Ryan Kenny
Manager, State Affairs
American Chemistry Council

cc: Members, Pasadena City Council; City Clerk



Flores, Silvia

From: Schmidt, Ursula
Sent: Monday, October 03, 2011 4:05 PM
To: Flores, Silvia
Cc: Jomsky, Mark
Subject: FW: Pasadena Carryout Bag Regulation
Attachments: doc20111003155507.pdf

Silvia,

Could we please include the correspondence below and the attached for tonight's meeting – we just got these.

thank you.

Ursula

URSULA SCHMIDT, LEED AP
SUSTAINABILITY AFFAIRS MANAGER
CITY OF PASADENA
626-744-6729

From: Tim James [mailto:tjames@CAGrocers.com]
Sent: Monday, October 03, 2011 3:59 PM
To: Bogaard, Bill; Robinson, Jacque; McAustin, Margaret; Holden, Chris; Masuda, Gene; Gordo, Victor; Madison, Steve; tornek@cityofpasadena.net
Cc: Schmidt, Ursula; Stone, Rhonda; district1; Fuller, Margo; McIntyre, Jacqueline; Sullivan, Noreen; De La Cuba, Vannia; Suzuki, Takako; Thyret, Pam
Subject: Pasadena Carryout Bag Regulation

Dear Councilmembers,

On behalf of the California Grocers Association, I am encouraging the City of Pasadena to follow the Los Angeles County carryout bag ordinance model when regulating bags. A unified regional approach to carryout bag regulations provides retailers regulatory consistency and eliminates jurisdictional disadvantages. The county-wide ordinance approach also creates greater predictability for consumers and provides the greatest amount of environmental gain.

CGA is a non-profit, statewide trade association representing the food industry since 1898. CGA represents approximately 500 retail members operating over 6,000 food stores in California and Nevada, and approximately 300 grocery supplier companies. Retail membership includes chain and independent supermarkets, convenience stores and mass merchandisers. CGA members operate a number of grocery stores located in Pasadena and in Los Angeles County.

Please contact me for additional information or with any questions. Thank you for your consideration. Tim

Timothy James
Manager, Local Government Relations
California Grocers Association
1215 K Street, #700
Sacramento, CA 95814
Phone: 916-448-3545
Cell: 916-832-6149

10/03/2011
Item 8

We, the undersigned residents and/or retail and grocery shoppers of Pasadena, recognizing our responsibility and capability of living as better stewards of our planet simply by changing our habits of convenience, do hereby support a citywide comprehensive plastic bag ban for Pasadena on the grounds that plastic bags:

- a) degrade our watershed rivers, our ocean environment, and the fish we eat;
- b) are a waste nuisance that costs millions of dollars for cities to clean up;
- c) are an inherently unsustainable product, made from non-renewable resources;
- d) can immediately be replaced by reusable bags, which are easy to use and to launder.

*Pasadena residents, please indicate your City Council District # in the right-hand column.
 Non-Pasadenans who work/shop in Pasadena, please place a checkmark (✓) in the right-hand column.

Name	Address	Email	* dist # or ✓
1 Doreen Tullach	1334 meadow Ln. Duarte	dncreid@aol.com	
2 Sue Redman	1210 Granada, Altadena	sueredman@att.net	✓
3 David Kidd	1510 Marian Dr., Glendale	dekidd95@sigblk.net	✓
4 Katherine Geller	496 S. Euclid Pasadena	Katherine.geller@yahoo.com	✓
5 Marcus King	1528 Ridgeway Dr. Glendale 71202	marcusvking@yahoo.com	
6 Anne M. Reid	2666 N. Lake Ave #14 Altadena 91001		
7 Anne Hayett Turner	1281 N. Catalina Ave Pas 91104		5
8 ROBERT WATSON	400 ARROYO TER	rwatson@COH.ORG	1
9 Gwen Watson	400 Arroyo Terrace	gwen.watson@warnerbros.com	✓
10 John Grula	2142 E CRANY ST Pasadena, CA 91104		
11 Joshua Rodgers	513 Fair Oaks Ave UNIT J South Pasadena	apvguy2006@yahoo.com	6
12 Michael Jesse	808 E. Pine St. Alhambra Ca 91801		✓
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	Name	Address	Email	Dist # or V
1	VIRGINIA TANZMANN	371 ARROYO TERRACE PASADENA 91103	tanzmann@ix.netcom.com	
2	Judd Parkin	410 Beckman, Glendale	juddparkin@gmail.com	
3	Richard Redman	1210 Granada St Altadena	rscrdman@att.net	
4	VINCENT MEJIA	518 EATON DRIVE PASADENA, CA	VINCENTMEJIA@ROCK.COM	
5	CARL DAVIS	PASADENA, CA 371 ARROYO TERRACE	ZELAPOLARBEAR@EARTHLINK.NET	
6	MARYANN AHAHAT	1171 MONTEREY RD St PAS. -	maahat@earthlink.net	✓
7	Trula Wolthy-Clayton	1551 Via DEL Rey So. Pasadena Pasadena	twolthy@earthlink.net	✓
8	Margo Harsted	842 Villa St. #351 91101	margo@umich.edu	5
9	Liz MOUVE	740 HOLLADAY RD.	l.mouve@pasadenalinks.com	7
10	Katherine	740 Holladay Rd.		7
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Name	Address	Email	Dist # or V
1 Kelly Bruck	2131 MINORV DR Altadena	Kelly-bruck@yahoo.com	
2 Austin Wiersma	2131 Minorv Dr Altadena	↗	
3 Jean Bruce Poole	1215 Alta Crest Dr Altadena	CA 91001 JBPHATT.NET	
4 RON WIERSMAN	2131 MINORV DR. ALTADENA	RWiersma@charter.net	
5 Robyn Smith	2759 Effie St., LA, CA 90026	Robyn-smith@earthlink	
6 Laura Garrett	711 S. Mentor Ave Pas. 91106	purplecow@jps.net	#7
7 DANIEL HADWELL	621 N EL MOLINO AV #2 PAS. 91104	danielh99@jps.net	3
8 Christine Stewart	4825 Southavenue, LA 90041	cesti-	
9 Carissa Baldwin	3308 Fair Oaks Ave. 91001 Glendale	chawind@allsaints-pas.org	✓
10 Patricia L King	1528 Ridgeway Dr 91202 Monrovia	134kings@msn.com	✓
11 K. Dwyer	332 N Canyon 91014	KDwyer@usc.edu	
12 John Moran	1215 E. Mendocino 91001	John & John Moran.com	
13 Francois Dubouché	3920 W. montana st 91103	dubouchefran@globalnet	
14 Lemuel Firestone	634 E Walnut St 91101	lemelfirestone@yahoo.com	3
15 Judy Hochenauer	389 Cliff Dr. Pas. 91107		4
16 ETRIGGS	PO Box 94708 PAS 91109	etriggs@gmail	
17 Lyndi Scott	452 Orange Grove Pl. 91103		3
18 LINDA ANNON	1158 26 th #531, SANTA ANITA 90409	LINDA@fwdline.biz	✓

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Name	Address	Email	*dist # or ✓
1 Kathi Wil	547 W Highland Ave	Siena Madie A 91124	
2 Najini Partamian	358 S Grand Oaks Ave	Pasadena 91124	
3 DAMON RUSSELL	358 S. GRAND OAKS AVE	PASADENA 91107.	
4 Mary Gavel	1465 Loma Vista St. Pas.	91104	2 ✓
5 Patrice Gibson	4650 Encinas Dr, La Canada, CA	91011	
6 Alicia Brossy de Dios	1825 S. Isabella Ave, Monterey Pk.	aliciabdt@sbcglobal.net	✓
7 Aubin Wilson	700 S. Oak Ave #107 Pasadena	Aubin 1024 @ sbc global.net	2
8 Norman C. Thomas	2889 San Pasquel St. Pas 91107	nethomas2@gmail.com	4
9 Suzanne Burg	1030 N. Marengo Pasadena 91103	lorrene@aol.com	3
10 Megan G Coop	850 BANK ST. San Pasaden 91103	mjcoop9@yahoo.com	✓
11 Ann Hennelly	3931 Edenhurst Ave Los Angeles 91103	annahennelly@gmail.com	
12 Barbara Bair	1231 E. Loma Alta R. Altadena 91201	bairsdens3@earthlink.net	✓
13 Phyllis Boyajic	1117 E Mariposa Altadena 91104	pkbca@aol.com	
14 Susan Houser	834 N. Meeker Ave. Pasadena 91104	@warpobalen.edu susanhouser@warner.edu	5
15 Selly Yingling	605 Carroll Way Pasadena 91107	lagunatic@sbcglobal.net	
16 Marianne Ryan	367 W. Walnut St Pasadena 91105	muriel@aol.com	
17 Elizabeth Thraen	119 Grand Oaks Ave, Altadena, 91101	ethraen@gmail.com	
18 Aleta Hancock	1925 Paloma St Pasadena	abdansen@charter.net	

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Name	Address	Email	Dist # or V
1 Wendy Cui	315 1/2 N. Atlantic ^{Alhambra}	wcui626@gmail	
2			
3 Emma Wiersma	2131 <u>minorcu</u> Dr. Alhambra	Kelly-bruck@yahoo.com	
4 Lynda Oberstahl	330 CORDOVA St.	lynzilla@att.net	6
5 James M. Garrett	711 S. Mendocino Ave.	jamesgar@jps.net	7
6 Deborah Ogden	1420 Santo Domingo Ave ^{Duarte}	judy.deb2@verizon.net	7
7 Joyce Breslin	245 S. Holliston Ave ^{#203}		7
8 JASON LYON	609 S. HUDSON ^{PAS. 91106} 91106	DJLYON2@ACE.COM	7
9 Tim Hartley	609 S. Hudson 91106	tim@timhartley.net	7
10 MACK MILES	452 ORANGE GROVE PL		3
11 Judy Van Vleet	527 E Las Flores Dr. Alhambra	judyvanvleet@yahoo.com	
12 Joan Ogden	2142 E Cray Pasadena 91104		
13 Mari E ROE	1420 Santo Domingo ^{Duarte}		✓
14 Norman Roe	1420 Santo Domingo, Duarte		✓
15 Hilking	1527 E CALIFORNIA		7
16 Mary Hamon-Adams	534 S. Oak Knoll Ave 204	damishgirl@earthlink.net	7
17 ROBERT ADAMS	534 S. OAK KNOLL #204 PASADENA CA 91101	robadam5@comcast.net	7
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Name	Address	Email	Dist # or ✓
1 Alicia Pelfrey	2078 OAKWOOD ST. PASADENA ⁹¹¹⁰⁴	pelfreyhome@yahoo.com	
2 JANET KORSMEYER	13310 BERG ST. SYLMAR ⁹¹³⁴²	dramamamax3@hotmail.com	✓
3 Pamela Gibson	587 N Garfield ^{Pasadena 91101} apt 5	-	
4 Don Thomas	178 N Oak Knoll #2 ^{Pasadena 91101}	jdonaldthomasmp@gmail.com	Dist # 3
5 Rosemary Alles	224 Arroyo 1200, E. CALIFORNIA BLVD. ^{Pasadena CA 91105}	rosemary.alles@gmail.com	
6 Hale Johnson	524 N WILSON	HALE 1005 E 9TH AVE. CH	
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	Name	Address	Email	* dist # or ✓
1	Randy Guss	544 N. Lincoln St. Burbank CA	randyguss@yahoo.com	✓
2	Margo Halsted	550 Orange Grove Circle #341 Pas. 91105	margo@umich.edu	6
3	Phoebe OZUNA	1223 Grace Dr. PAS. 91105	POZUNA@charter.net	6
4	Rebekah Garcia	12140 Ranchito St. El Monte CA		no
5	Valerie Okorochoa	260 Sequoia Dr. Pas. 91105	V G OKOROCHOA@yahoo.com	6
6	Donelia Hym Lamb	860 N. Michigan Av Pasadena, CA 91107		
7	ROBERT CORNELL	1211 SYMPHONY AVE PASADENA CA 91104		
8	Madeleine Eaton	1324 Galer St, Duarte 91010		
9	Elisabeth Eilers	446 S. Marengo Pasadena 91101		
10	Karen Schooler	250 S. Oak Knoll Ave #303 Pasadena 91101		
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We, the undersigned residents and/or retail and grocery shoppers of Pasadena, recognizing our responsibility and capability of living as better stewards of our planet simply by changing our habits of convenience, do hereby support a citywide comprehensive plastic bag ban for Pasadena on the grounds that plastic bags:

- a) degrade our watershed rivers, our ocean environment, and the fish we eat;
- b) are a waste nuisance that costs millions of dollars for cities to clean up;
- c) are an inherently unsustainable product, made from non-renewable resources;
- d) can immediately be replaced by reusable bags, which are easy to use and to launder.

*Pasadena residents, please indicate your City Council District # in the right-hand column.
 Non-Pasadenans who work/shop in Pasadena, please place a checkmark (v) in the right-hand column.

Name	Address	Email	* dist # or v
1 Nancy Bol			
2 Marna Cornell	Pas 91104 1211 Sinaloa Ave.	@ gmail.com marnacornell@gmail.com	
3 Melissa Madrid	7059 Marigold St Lancho Cucamonga		
4 MICAH PALPANT	670 N. Hill Ave #2 PASADENA 91106		
5 Jerry Craig	1945 Minoru Dr. Altadena 91001		
6 Nichole Nogales	500 S. El Molino Ave Apt. 11 Pasadena, CA 91101		
7 Thomas Schultz	244 Hickory Ave. Pomona 91767		
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Name	Address	Email	* dist # or ✓
1 PAULA ARVEDSON	1550 E WOODBURY RD PASADENA, CA 91104	PARVEDS@CALSTATELA.EDU	
2 Cam Sanders	1325 Angelus Ar. Los Angeles CA		✓
3 TERI SHIKASHO	720 MAGNOLIA AVE, PASADENA	shikasho@earthlink.net	7
4 FRANCESCO GAREA		fgarea@bcs@ymail.com	no
5 George Oliver	1560 Gracewood	olivergw@earthlink	
6 Paul Hertig	826 Orange Grove Place	pepepaypay@hotmail.com	
7 Brenno Snider	971 Parkman St Altadena		
8 Rosemary Baxter Baker	3067 Santa Rosa Ave. Altadena	rosemarybaxter bakert@yahoo.com	
9 Britta Foster	3232 Vickers Dr. Glendale	91208	
10 Ed Kuan	540 Woodland Rd Pasadena CA		
11 TWYLA MEYER	POMONA, CA 244 HICKORY AVE 91762		
12			
13			
14			
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Name	Address	Email	* dist # or ✓
1 Randy Reyn-Lomb	800 N. Michigan Ave. Pasadena 91104	rreynlomb@juno.com	5
2 Bruce BARBOCK	1620 THURBER PL GLENDALE CA 91204	offdax2@earthlink.net	
3 Debra Vickroy	960 Atchison St Pasadena 91104	debravickroy@aol.com	2
4 ROSE N. WETTS	540 TAMARAC DR PAS 91105	aberose80@att.net	
5 Jane + Davis	1220 N. Ave. 45 LA CA 90041	jdavisbass@aol.com	
6 Abby Walsh	3913 San Rafael LA CA 90065	abimpcakwell@yahoo.com	
7 YOUNG ET HERTIS	826 CRANSE GROVE PL	YLHERTIS@yahoo.com	
8 Barbara Baird	1231 E Loma Alta Dr Altadena 91103	bairnsden3@earthlink.net	
9 Cheryl Duboucheron	323 W Montano St. Pasadena	duboucheron@SBCglobal.net	
10 MICHELLE JOHNSTON	9558 GALA AVE ALTA LOMA, CA 91701	MEJ217@GMAIL.COM	N/A
11 William KARSPECK	401 Hillcrest Blvd, Monrovia CA 91016	WILLKARSPECK@gmail.com	
12 MICHAELA MATSUMOTO	140 N. CANYON BLVD # 9016 AMONIVIA CA	MAKEIROCK@GMAIL.COM	
13 Sara J. Dogbe	520A W. Colorado Blvd Monrovia 91016	sdogbe@hotmail.com	
14 MARC HAMILTON	7410 S. HANCOCK BLVD 385 S CATALINA AVE LOS ANGELES, CA 90006 PASADENA, CA 91106	marc.hamilton@earthlink.net	
15 Ada Ramirez	11858 BIRCH AVE Hawthorne, CA 90250	ada.ramirez888@gmail.com	
16 CHARIN SARFATY	P.O. Box 891962 TEMECULA, CA 92589	sdsatu@mac.com	
17 Edichi Byerle	2219 Hill Ave. ALTA DENA, CA 91001	edichib@gmail.com	
18			

Mayor Bill Bogaard and Pasadena City Council Members
100 N. Garfield Avenue
Pasadena, CA 91109

Dear Mayor and Pasadena City Council:

We are Business owners and small businesses in California who value the natural beauty of our state and want California to stay pristine. Who write to express our support of a Single-Use plastic Bag Ban here in Pasadena.

Retailers spend hundreds of millions of dollars annually to provide single-use bags to customers. For example, supermarkets can spend up to \$1,500 to \$6,000 a month just to provide single-use bags to their customers at the check-out. Even major retailers such as Target and CVS are realizing this significant cost burden and are offering discount and incentives to customers who bring their own bags.

Stores typically pay 2 to 5 cents per plastic bag; these costs are embedded in food prices, which are then passed onto the consumers. This can add up to as much as \$18 per person per year.

As businesses, we are also concerned with the environmental and economic impacts of plastic bag pollution in inland communities throughout the state. Californians use an estimated 11.9 billion single-use plastic bags every year. That state spends an estimated \$25 million annually to clean up and landfill these littered bags, which does not include the over \$300 million that local governments continually spend to clean littered streets and waterways.

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Sincerely,



10/03/2011
Item 8

Environment California

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Of course, those who sell the 11.9 billion bags are fighting to maintain the status quo, fronted by the lobbying team form the American Chemistry Council. But we need to do what is best for the Pacific and our future, not just a few corporations.

Our business supports a plastic bag ban that moves us forward.

Business Title recyclant

Business Owner luxelav

Address 42 S. Fair Oaks

City/State/Zip Pasadena, CA

Email heather@luxelav.com

Phone 626-564-0001

Mayor Bill Bogaard and Pasadena City Council Members
100 N. Garfield Avenue
Pasadena, CA 91109

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Sincerely,

A large, stylized handwritten signature in black ink, appearing to be 'Bill Bogaard', written over the 'Sincerely,' text.

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Our business supports a plastic bag ban that moves us forward.

Business Title PASADENA WATCH COMPANY

Business Owner KEVIN

Address 20 E. COLORADO BL.

City/State/Zip PASADENA CA 91105

Email _____

Phone 626 440-7002

Mayor Bill Bogaard and Pasadena City Council Members
100 N. Garfield Avenue
Pasadena, CA 91109

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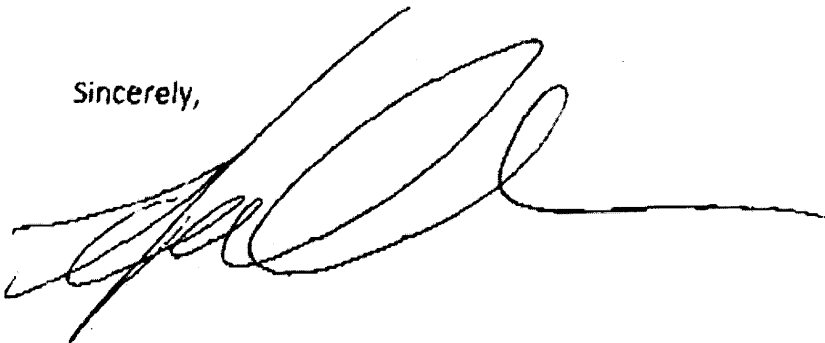
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A large, stylized handwritten signature in black ink, consisting of several loops and a long horizontal stroke at the end.

3 2011 11:01 AM

Environment California

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Our business supports a plastic bag ban that moves us forward.

Business Title Sugar Fix LLC
Business Owner Kristine Lew
Address 63 S. Raymond Ave
City/State/Zip Pasadena, Ca 91106
Email Info@SugarFixDesserts.com
Phone 626 396 9402

Mayor Bill Bogaard and Pasadena City Council Members
100 N. Garfield Avenue
Pasadena, CA 91109

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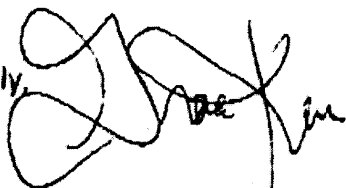
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Sincerely,

A handwritten signature in black ink, appearing to be "John Kim", written over a large, stylized circular scribble.

Environment California

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Our business supports a plastic bag ban that moves us forward.

Business Title TEA ROSS GARDEN

Business Owner GRACE KIM

Address 28 S. RAYMOND AVE

City/State/Zip PASADENA CA 91105

Email tracegarden@gmail.com

Phone (626) 578-1144

Mayor Bill Bogaard and Pasadena City Council Members
100 N. Garfield Avenue
Pasadena, CA 91109

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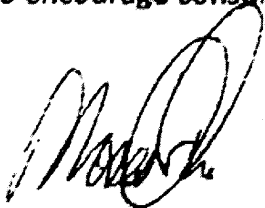
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Sincerely,

A handwritten signature in black ink, appearing to be 'M. Bogaard', written over a faint circular stamp or watermark.

Environment California

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Our business supports a plastic bag ban that moves us forward.

Business Title NEO 39

Business Owner MOSES CHO

Address 39 E. COLORADO BLVD. PASADENA, CA 91105

City/State/Zip _____

Email _____

Phone 626-683-1257

**Mayor Bill Bogaard and Pasadena City Council Members
100 N. Garfield Avenue
Pasadena, CA 91109**

Dear Mayor and Pasadena City Council:

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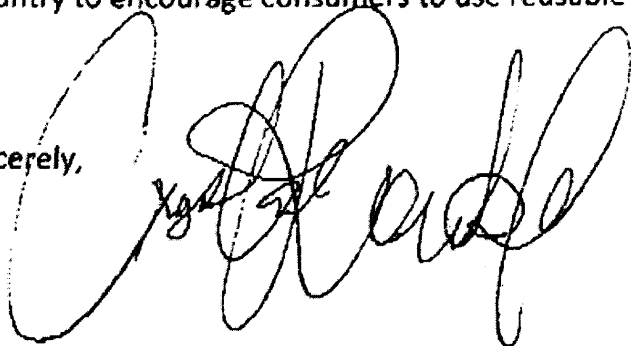
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Our business supports a plastic bag ban that moves us forward.

Business Title Beyond the Olive

Business Owner Crystal Reibel

Address 10 N Raymond Ave

City/State/zip Pasadena, CA 91103

Email info@beyondtheolive.com

Phone 626-844-3846

Mayor Bill Bogaard and Pasadena City Council Members
100 N. Garfield Avenue
Pasadena, CA 91109

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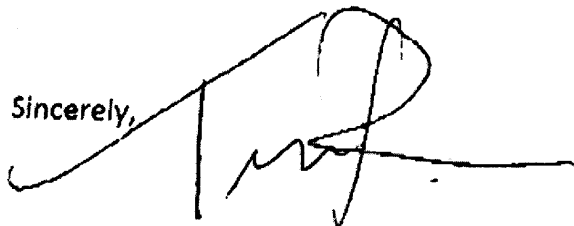
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Environment California

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Our business supports a plastic bag ban that moves us forward.

Business Title Crown City Loan

Business Owner Todd Robinson

Address 65 EAST Colorado BLV

City/State/Zip Pasadena CA 91105

Email _____

Phone 626-793-5404

Mayor Bill Bogaard and Pasadena City Council Members
100 N. Garfield Avenue
Pasadena, CA 91109

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Stores typically pay 2 to 5 cents per plastic bag; these costs are embedded in food prices, which are then passed onto the consumers. This can add up to as much as \$18 per person per year.

As businesses, we are also concerned with the environmental and economic impacts of plastic bag pollution in inland communities throughout the state. Californians use an estimated 11.9 billion single-use plastic bags every year. That state spends an estimated \$25 million annually to clean up and landfill these littered bags, which does not include the over \$300 million that local governments continually spend to clean littered streets and waterways.

We can no longer recycle our way out of this problem. Despite efforts to expand recycling programs, less than 5% of single-use plastic bags are currently being recycled. The rest of these bags end up in our landfills or as litter, clogging storm drain systems, and making their way to our waterways and ocean. It is estimated that 60%-80% of all marine debris, and 90% of floating debris is plastic. Plastic lasts for hundreds of years in our environment and may never biodegrade in the ocean. As a result, it poses a persistent threat to wildlife killing millions of marine animals like sea turtles and sea birds every year.

San Francisco, Los Angeles County, Fairfax, and San Jose have banned plastic bags and at least 29 more cities in California are considering this approach. By building a patchwork quilt of local plastic bag bans across the state we will not only start solving the problem, but we will also create pressure on our state legislature to take action on a uniform policy across the state that would lead the way for the rest of the country to encourage consumers to use reusable bags, the most sustainable alternative.

Sincerely,



Environment California

Momentum is building with over 12 counties and cities who have stood up to protect the Pacific Ocean and banned single-use plastic bags and 29 more on the way. Italy just passed a nationwide plastic bag ban. Let's make the City of Los Angeles a member of the plastic bag free club.

California uses 11.9 billion plastic bags per year, and all this plastic not only clogs up our landfills, but its hurting the ocean. Approximately 1,000 miles of our coast is a swirling mass, twice the size of Texas, full of plastic and other artificial debris. We need to start cleaning up our act.

Of course, those who sell the 11.9 billion bags are fighting to maintain the status quo, fronted by the lobbying team from the American Chemistry Council. But we need to do what is best for the Pacific and our future, not just a few corporations.

Our business supports a plastic bag ban that moves us forward.

Business Title ELISA B.

Business Owner ELISA BOULEY

Address 12 DOUGLAS ALLEY

City/State/Zip PUEBLO, CA 91103

Email elisa@elisa.com

Phone 626 742-9746

Mayor Bill Bogaard and Pasadena City Council Members
100 N. Garfield Avenue
Pasadena, CA 91109

Dear Mayor and Pasadena City Council:

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Retailers spend hundreds of millions of dollars annually to provide single-use bags to customers. For example, supermarkets can spend up to \$1,500 to \$6,000 a month just to provide single-use bags to their customers at the check-out. Even major retailers such as Target and CVS are realizing this significant cost burden and are offering discount and incentives to customers who bring their own bags.

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Sincerely,

A handwritten signature in black ink, appearing to be a stylized 'B' or similar initials, written over a circular scribble.

Environment California

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Our business supports a plastic bag ban that moves us forward.

Business Title Shop Therapy
Business Owner E. Cole
Address 38 S. Raymond Ave
City/State/Zip Pasadena, Ca 91105
Email
Phone 626-605-2855

Mayor Bill Bogaard and Pasadena City Council Members
100 N. Garfield Avenue
Pasadena, CA 91109

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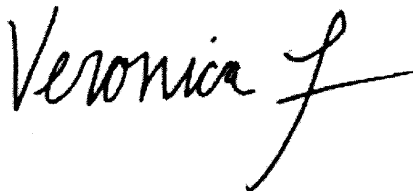
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Sincerely,

A handwritten signature in black ink that reads "Veronica F." with a stylized flourish at the end.

Environment California

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Our business supports a plastic bag ban that moves us forward.

Business Title Veronica M

Business Owner Veronica F.

Address 16 Fair Oaks

City/State/Zip Pasadena Ct 91105

Email keneemwaniolek@gmail.com

Phone 626 844 7347

Vandervort, Kathy

From: Phil Rozenski <Phil.Rozenski@hilexpoly.com>
Sent: Monday, October 03, 2011 4:01 PM
To: cityclerk
Subject: City of Pasadena Bag Legislation
Attachments: Schmeer Complaint.pdf

City Clerk Jomsky

As an employee of Hilex Poly, an industry leading manufacturer and recycler of plastic bag and film products, I have been following with interest the recent bag conversation in California. With a vote on this issue approaching, I wanted to share some information about the real impacts of bag legislation and an alternative – recycling – that achieves the goal of reducing litter while protecting the 10,000+ Americans employed by the plastic bag manufacturing and recycling industry, many of whom are Californians.

Experience shows bag legislation cripples green job growth while producing no benefits for the environment or consumers. Put simply, a yes vote on banning plastic bags in Pasadena will:

- Decrease jobs in California
- Increase dependence on foreign oil
- Increase global greenhouse gas emissions
- Decrease recycling of plastic bags, sacks and wraps
- Not decrease the amount of plastic entering the waste stream

I also wanted to let you know that earlier today, several California residents and Hilex Poly filed a lawsuit against the County of Los Angeles in response to the County's decision to ban the use of plastic carry out bags and impose an unconstitutional tax on paper carry out bags provided by retail stores. Los Angeles County's bag "charge" on consumers violates Proposition 26, which clearly requires local taxes be approved by a two-thirds vote. The ten-cent tax imposed on bags was never approved by voters much less by a two-thirds vote. Proposition 26 was implemented to counter situations exactly like this one where taxes are labeled by the local government as 'fees' in order to circumvent the electoral process. I have attached the Complaint to this email for your reference.

If you have any questions or would like to discuss the facts about plastic bags and the impacts of plastic bag legislation, please let me know; I am available to discuss this further with you at any time.

Thank you,

v/r

Philip R. Rozenski
Director of Marketing and Sustainability
618 402-4244
phil.rozenski@hilexpoly.com

Learn the facts about plastic bags at www.bagtheban.com

Hilex Poly Co., LLC
1780 Belt Way Drive
St. Louis, MO 63114

10/03/2011
Item 8

1 NIELSEN MERKSAMER PARRINELLO
2 GROSS & LEONI, LLP
3 JAMES R. PARRINELLO (SBN 063415)
4 ERIC J. MIETHKE (SBN 133224)
5 SEAN P. WELCH (SBN 227101)
6 KURT R. ONETO (SBN 248301)
7 2350 Kerner Blvd., Suite 250
8 San Rafael, CA 94901
9 TELEPHONE: (415) 389-6800
10 FAX: (415) 388-6874

11 Email: jparrinello@nmgovlaw.com
12 Email: emiethke@nmgovlaw.com
13 Email: swelch@nmgovlaw.com
14 Email: koneto@nmgovlaw.com

15 *Attorneys for Petitioners/Plaintiffs*
16 Lee Schmeer, Salim Bana, Jeff
17 Wheeler, Chris Kucma, Hilex Poly Co. LLC

18 SUPERIOR COURT OF THE STATE OF CALIFORNIA
19 COUNTY OF LOS ANGELES

20 LEE SCHMEER, SALIM BANA, JEFF
21 WHEELER, CHRIS KUCMA, and
22 HILEX POLY CO. LLC,

23 *Petitioners/Plaintiffs,*

24 vs.

25 COUNTY OF LOS ANGELES,
26 CALIFORNIA; GAIL FARBER in her
27 official capacity as Los Angeles Co.
28 Director of Public Works; KURT
FLOREN in his official capacity as Los
Angeles Co. Director of the Dept. of
Agricultural Commissioner/Weights
and Measures; DR. JONATHAN
FIELDING in his official capacity as
Los Angeles Co. Director of Public
Health; and DOES 1-10,

Respondents/Defendants.

Case No.:

**VERIFIED COMPLAINT FOR
WRIT OF MANDATE,
INJUNCTIVE RELIEF, AND
DECLARATORY RELIEF**

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INTRODUCTION

1. Los Angeles County has by ordinance banned the use of plastic carry out bags and imposed a mandatory “charge” on consumers who use paper carry out bags provided by retail stores for the purpose of carrying away purchased items. This so-called “carryout bag charge”—actually an illegal and unconstitutional special tax—is being imposed by the County at a time when consumers can least afford to bear another government-imposed cost burden. As explained in more detail below, the so-called “charge” violates the California Constitution because it is in fact a local special tax that that has not been approved by a vote of qualified electors in the County of Los Angeles.

2. The ordinance imposing the so-called “charge”—actually a special tax under California law—should be declared invalid, and the County of Los Angeles should be prohibited from enforcing the ordinance and forcing retail stores to collect the special tax.

3. This Court is a proper venue for this action under Code of Civil Procedure § 394.

PARTIES

4. Petitioners/Plaintiffs (“Petitioners”) Lee Schmeer, Salim Bana, Jeff Wheeler and Chris Kucma are individuals and California taxpayers; each has been required to pay and has paid the carryout bag “charge”—actually a special tax—imposed, administered and enforced by Respondents/Defendants (“Respondents”). Petitioner Hilex Poly Co. LLC is a manufacturer of plastic bags which are banned by the Ordinance at issue.

5. Respondent County of Los Angeles (“COUNTY”) adopted Ordinance 2010-0059, adding Chapter 12.85 to Title 12 of the Los Angeles County Code (“L.A. Co. Code”), to impose a \$0.10 so-called “charge” on every paper carryout bag provided by retail stores to consumers within the COUNTY. A true and correct copy of that ordinance is attached hereto as Exhibit A. Until enactment of said ordinance,

1 retail stores were not required to charge for such paper bags and routinely provided
2 them without charge.

3 6. Respondent GAIL FARBER is the Director of Public Works for the
4 COUNTY and has primary responsibility under Ordinance No. 2010-0059 for
5 enforcing the paper carryout bag special tax. (L.A. Co. Code § 12.85.080(A).)

6 7. Respondent KURT FLOREN is the Director of the Department of
7 Agriculture Commissioner/Weights and Measures for the COUNTY and is
8 responsible under Ordinance No. 2010-0059 for assisting in the enforcement of the
9 paper carryout bag special tax. (L.A. Co. Code § 12.85.080(A).)

10 8. Respondent DR. JONATHAN FIELDING is the Director of Public
11 Health for the COUNTY and is responsible under Ordinance No. 2010-0059 for
12 assisting in the enforcement of the paper carryout bag special tax. (L.A. Co. Code §
13 12.85.080(A).)

14 9. Petitioners are unaware of the true names and capacities of
15 Respondents DOES 1 through 10, and names such respondents/defendants by
16 fictitious names. Petitioners are informed, and believe, and based upon such
17 information and belief allege, that each of the fictitiously named Respondents is in
18 some manner responsible for the actions described in this Complaint. When the
19 true identities and capacities of these Respondents have been determined,
20 Petitioners will seek leave to amend this Complaint to insert such identities herein.

21 The Ordinance

22 10. On November 23, 2010, the COUNTY adopted Ordinance No. 2010-
23 0059 ("Ordinance"). The Ordinance added Chapter 12.85 to Title 12 of the L.A. Co.
24 Code relating to plastic and paper carryout bags and promoting the County policy in
25 support of reusable nonpaper carryout bags.

26 11. As a part of the scheme, the Ordinance bans stores from providing
27 plastic carryout bags to customers. (L.A. Co. Code § 12.85.020(A).)

28 ///

1 12. A critical component of the scheme is that the Ordinance requires all
2 retail stores to charge customers 10 cents (\$0.10) for each paper carryout bag
3 provided (L.A. Co. Code § 12.85.040(A)). Until enactment of said ordinance,
4 consumers were not required to pay a charge for their use of such paper bags which
5 retail stores routinely provided to consumers without charge.

6 13. The Ordinance then requires the revenues collected to be retained by
7 each store and used only for (1) costs associated with complying with Chapter 12.85,
8 (2) actual costs of providing paper carryout bags, and (3) costs associated with a
9 store’s educational materials and campaigns encouraging the use of reusable
10 nonpaper carryout bags in furtherance of the County’s policy promoting the use of
11 such bags. (L.A. Co. Code § 12.85.040(D).)

12 14. The Ordinance further requires retail stores to report to the Director of
13 Public Works on a quarterly basis a summary of efforts the store has undertaken to
14 promote the use of reusable nonpaper carryout bags (L.A. Co. Code § 12.85.040(E));
15 and mandates that all retail stores shall provide reusable nonpaper carryout bags,
16 either for sale or at no charge (L.A. Co. Code § 12.85.050(A)). The Ordinance also
17 contains an express statement declaring that “[e]ach store is strongly encouraged to
18 educate its staff to promote reusable bags and to post signs encouraging customers
19 to use reusable bags.” (L.A. Co. Code § 12.85.050(B).)

20 15. The Ordinance became operative on July 1, 2011. (L.A. Co. Code §
21 12.85.070.)

22 16. The Ordinance was *not* submitted to the electors of Los Angeles County
23 for their approval.

24 **The California Constitution**

25 17. On November 5, 1996, the electors of the State of California approved
26 Proposition 218. Proposition 218, among other things, added Article XIII C to the
27 California Constitution to require local voter approval before any local government

28 ///

1 tax may be imposed, extended, or increased. Proposition 218 became operative on
2 November 6, 1996.

3 18. Proposition 218 defined "local government" as "any county, city, city
4 and county, including a charter city or county, any special district, or any other local
5 or regional governmental entity." (Cal. Const., art. XIII C, § 1(c).) Furthermore,
6 Proposition 218 defined "general tax" as "any tax imposed for general governmental
7 purposes;" and "special tax" as "any tax imposed for specific purposes..." (Cal.
8 Const., art. XIII C, § 1(a) & (d).)

9 19. Proposition 218 states that no local government may impose, extend or
10 increase any general tax until the tax is submitted to the electorate and approved by
11 a majority vote. (Cal. Const., art. XIII C, § 2(b).) Proposition 218 states that no
12 local government may impose, extend, or increase any special tax until the tax is
13 submitted to the electorate and approved by a two-thirds vote. (Cal. Const., art.
14 XIII C, § 2(d).)

15 20. On November 2, 2010, the electors of the State of California approved
16 Proposition 26. Proposition 26 amended Article XIII C of the California
17 Constitution to define "tax" for local purposes as "any levy, *charge, or exaction of*
18 *any kind imposed by a local government*" subject to seven specified exemptions not
19 applicable here. (Emphasis added.)

20 21. Proposition 26 also changed the burden of proof in lawsuits
21 challenging any levy, charge or exaction at the local level. It requires the local
22 government imposing a levy, charge, or exaction to prove by a preponderance of the
23 evidence that the levy, charge, or other exaction is not a tax. (Cal. Const., art. XIII
24 C, § 1.)

25 **No Local Tax Can Be Imposed Unless Approved by the Voters**

26 22. It should come as no surprise that the paper carryout bag special tax
27 can only be imposed upon approval of the electors. Through a series of ballot
28 measures dating back more than thirty years, California voters have repeatedly

1 expressed their unambiguous intent that local taxes should not be imposed without
2 prior voter consent.

3 23. *First*, in 1978, voters adopted Proposition 13, which added Article XIII
4 A to the California Constitution. Section 4 of Article XIII A prohibits counties from
5 imposing special taxes without first obtaining a two-thirds vote of electors.

6 24. *Second*, eight years after Proposition 13's passage, Proposition 62 was
7 adopted to add a new article to the Government Code (§§ 5370-53730) originally
8 requiring that all new taxes imposed by counties be approved by local electors.

9 25. *Third*, California voters adopted the aforementioned Proposition 218 in
10 1996 to stop repeated efforts by local governments to evade Proposition 13's limits
11 on taxation without voter approval. Proposition 218 further states that its
12 provisions "shall be liberally construed to effectuate its purposes of limiting local
13 government revenue and enhancing taxpayer consent."

14 26. *Finally*, less than a year ago in November 2010, voters adopted the
15 aforementioned Proposition 26 to stop repeated attempts by local governments to
16 circumvent Proposition 218's voter approval requirements by labeling taxes as
17 "fees." Proposition 26's findings and declarations of purpose note that the
18 escalation in taxation

19 does not account for the recent phenomenon whereby the Legislature and
20 local governments have disguised new taxes as "fees" in order to extract even
21 more revenue from California taxpayers without having to abide by these
22 [Propositions 13 and 218's] constitutional voting requirements. Fees couched
23 as "regulatory" but which exceed the reasonable costs of actual regulation or
24 are simply imposed to raise revenue for a new program and are not part of
25 any licensing or permitting program are actually taxes and should be subject
26 to the same limitations applicable to the imposition of taxes.

27 27. Proposition 26 further found and declared that "In order to ensure the
28 effectiveness of these constitutional limitations," the measure "defines a 'tax' for
state and local purposes so that neither the Legislature nor local governments can
circumvent these restrictions on increasing taxes by simply defining new or
expanded taxes as 'fees'."

**Regardless of its Characterization as a "Charge,"
the Paper Carryout Bag Exaction is a Tax**

28. As discussed above, Proposition 26 added subdivision (e) to Section 1 of Article XIII C of the California Constitution to define *any levy, charge, or exaction of any kind* imposed by a local government as a "tax" except the following exemptions:

(1) A charge imposed for a specific benefit conferred or privilege granted directly to the payor that is not provided to those not charged, and which does not exceed the reasonable costs to the local government of conferring the benefit or granting the privilege to the payor.

(2) A charge imposed for a specific government service or product provided directly to the payor that is not provided to those not charged, and which does not exceed the reasonable costs to the local government of providing the service or product.

(3) A charge imposed for the reasonable regulatory costs to the local government for issuing licenses and permits, performing investigations, inspections, and audits, enforcing agricultural marketing orders, and the administrative enforcement and adjudication thereof.

(4) A charge imposed for entrance to or use of local government property, or the purchase, rental, or lease of local government property, except charges governed by Section 15 of Article XI.

(5) A fine, penalty, or other monetary charge imposed by the judicial branch of government or a local government, as a result of a violation of law.

(6) A charge imposed as a condition of property development.

(7) Assessments and property-related fees imposed in accordance with the provisions of Article XIII D.

29. The Ordinance characterizes the \$0.10 paper carryout bag exaction as a "charge." A "charge" is one of the items specifically enumerated as a "tax" under the California Constitution (a "levy, charge, or exaction of any kind imposed by a local government..."). The charge does not fall within any of the seven specified

1 exemptions to the definition of a local "tax" in California Constitution, Article XIII
2 C, § 1(e), and is therefore a "tax" under the Constitution.

3 30. The \$0.10 paper carryout bag "charge" is precisely what Proposition 26
4 sought to prohibit—taxes characterized as "fees" or "charges" in order to do an end-
5 run around the California Constitution's voter approval requirements.

6 **The "Charge" is a Special Tax and Must Be**
7 **Approved by a Two-Thirds Vote of the Electors**

8 31. The \$0.10 paper carryout bag "charge" is not covered by any of the
9 exemptions from the definition of "tax" under the California Constitution. Instead,
10 the "charge" is a tax imposed on retail store customers to support the COUNTY'S
11 program of promoting and encouraging the use of reusable nonpaper carryout bags.

12 32. Since the "charge" is a tax imposed to support the COUNTY's program
13 of promoting and encouraging the use of reusable nonpaper carryout bags, it is a tax
14 imposed for a specific purpose.

15 33. Since the "charge" is a tax imposed for a specified purpose, it is a
16 special tax under the California Constitution and can only be legally imposed upon
17 approval by two-thirds of the electors in the COUNTY.

18 34. Under the California Constitution, the COUNTY bears the burden of
19 proving by a preponderance of the evidence that the "charge" is not a special tax
20 subject to two-thirds voter approval.

21 **FIRST CAUSE OF ACTION**

22 **(Writ of Mandate and Injunctive Relief)**

23 35. The allegations of paragraphs 1 through 34 above are incorporated by
24 reference as though fully set forth herein.

25 36. For the reasons set forth herein, the so-called "charge" on paper
26 carryout bags imposed by the Ordinance constitutes a special tax under California
27 Constitution, Article XIII C.

28 ///

1 unconstitutional because it did not receive approval by a two-thirds vote of qualified
2 electors.

3 45. It is necessary and appropriate for this Court to declare that the so-
4 called "charge" on paper carryout bags imposed by the Ordinance is a special tax
5 subject to the requirement of approval by a two-thirds vote of qualified electors; and
6 that the Ordinance and the special tax that it imposes are therefore invalid, illegal,
7 and unconstitutional.

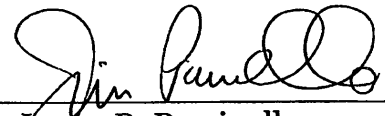
8 **PRAYER FOR RELIEF**

9 WHEREFORE, Petitioners pray that this Court enter judgment in favor of
10 Petitioners and against Respondents as set forth below:

- 11 1. A Declaration that the Ordinance including without limit the special tax
12 on paper carryout bags, is invalid, illegal, and unconstitutional in its entirety.
- 13 2. Writ of Mandate, Injunctive relief and/or other appropriate relief
14 against implementation and enforcement of the Ordinance by Respondents and
15 their agents and all persons acting under their direction, including without limit
16 from enforcing the Ordinance in its entirety including the special tax on paper
17 carryout bags.
- 18 3. For costs of suit and attorneys fees.
- 19 4. For such other and further relief as the Court shall deem appropriate.

20
21 Dated: October 3, 2011

NIELSEN MERKSAMER PARRINELLO
GROSS & LEONI, LLP

22
23 By: 
24 James R. Parrinello
25 *Attorneys for Petitioners*

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VERIFICATION

I, James R. Parrinello, declare as follows:

I am an attorney at law duly admitted and licensed to practice before all courts of this State and I have my professional office at 2350 Kerner Blvd., Suite 250, San Rafael, CA 94901.

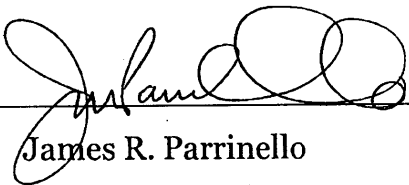
I am the attorney of record for Petitioners/Plaintiffs in this action. Petitioners are absent from the county in which I have my office and for that reason I am making this verification on their behalf.

I have read the foregoing Verified Complaint for Writ of Mandate, Injunctive Relief, and Declaratory Relief and know the content thereof.

I am informed and believe that the matters stated therein are true and, on that ground, I allege that the matters stated therein are true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on October 3, 2011, at San Rafael, California.


James R. Parrinello

Title 12 ENVIRONMENTAL PROTECTION

Chapter 12.85 CARRYOUT BAGS

12.85.010 Definitions.

The following definitions apply to this Chapter:

- A. "Customer" means any person purchasing goods from a store.
- B. "Operator" means the person in control of, or having the responsibility for, the operation of a store, which may include, but is not limited to, the owner of the store.
- C. "Person" means any natural person, firm, corporation, partnership, or other organization or group however organized.
- D. "Plastic carryout bag" means any bag made predominantly of plastic derived from either petroleum or a biologically-based source, such as corn or other plant sources, which is provided to a customer at the point of sale. "Plastic carryout bag" includes compostable and biodegradable bags but does not include reusable bags, produce bags, or product bags.
- E. "Postconsumer recycled material" means a material that would otherwise be destined for solid waste disposal, having completed its intended end use and product life cycle. "Postconsumer recycled material" does not include materials and by-products generated from, and commonly reused within, an original manufacturing and fabrication process.
- F. "Produce bag" or "product bag" means any bag without handles used exclusively to carry produce, meats, or other food items to the point of sale inside a store or to prevent such food items from coming into direct contact with other purchased items.
- G. "Recyclable" means material that can be sorted, cleansed, and reconstituted using available recycling collection programs for the purpose of using the altered form in the manufacture of a new product. "Recycling" does not include burning, incinerating, converting, or otherwise thermally destroying solid waste.
- H. "Recyclable paper carryout bag" means a paper bag that meets all of the following requirements: (1) contains no old growth fiber, (2) is one hundred percent (100%) recyclable overall and contains a

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minimum of forty percent (40%) post-consumer recycled material; (3) is capable of composting, consistent with the timeline and specifications of the American Society of Testing and Materials (ASTM) Standard D6400; (4) is accepted for recycling in curbside programs in the County; (5) has printed on the bag the name of the manufacturer, the location (country) where the bag was manufactured, and the percentage of postconsumer recycled material used; and (6) displays the word "Recyclable" in a highly visible manner on the outside of the bag.

I. "Reusable bag" means a bag with handles that is specifically designed and manufactured for multiple reuse and meets all of the following requirements: (1) has a minimum lifetime of 125 uses, which for purposes of this subsection, means the capability of carrying a minimum of 22 pounds 125 times over a distance of at least 175 feet; (2) has a minimum volume of 15 liters; (3) is machine washable or is made from a material that can be cleaned or disinfected; (4) does not contain lead, cadmium, or any other heavy metal in toxic amounts; (5) has printed on the bag, or on a tag that is permanently affixed to the bag, the name of the manufacturer, the location (country) where the bag was manufactured, a statement that the bag does not contain lead, cadmium, or any other heavy metal in toxic amounts, and the percentage of postconsumer recycled material used, if any; and (6) if made of plastic, is a minimum of at least 2.25 mils thick.

J. "Store" means any of the following retail establishments located within the unincorporated area of the County:

A full-line, self-service retail store with gross annual sales of two million dollars (\$2,000,000), or more, that sells a line of dry grocery, canned goods, or nonfood items and some perishable items;

A store of at least 10,000 square feet of retail space that generates sales or use tax pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law (Part 1.5 (commencing with Section 7200) of Division 2 of the Revenue and Taxation Code) and that has a pharmacy licensed pursuant to Chapter 9 (commencing with Section 4000) of Division 2 of the Business and Professions Code; or

A drug store, pharmacy, supermarket, grocery store, convenience food store, foodmart, or other entity engaged in the retail sale of a limited line of goods that includes milk, bread, soda, and snack foods, including those stores with a Type 20 or 21 license issued by the Department of Alcoholic Beverage Control. (Ord. 2010-0059 § 1, 2010.)

12.85.020 Plastic carryout bags prohibited.

A. No store shall provide to any customer a plastic carryout bag.

B. This prohibition applies to bags provided for the purpose of carrying away goods from the point of sale and does not apply to produce bags or product bags. (Ord. 2010-0059 § 1, 2010.)

12.85.030 Permitted bags.

All stores shall provide or make available to a customer only recyclable paper carryout bags or reusable bags for the purpose of carrying away goods or other materials from the point of sale, subject to the terms of this Chapter. Nothing in this Chapter prohibits customers from using bags of any type that they bring to the store themselves or from carrying away goods that are not placed in a bag, in lieu of using bags provided by the store. (Ord. 2010-0059 § 1, 2010.)

12.85.040 Regulation of recyclable paper carryout bags.

A. Any store that provides a recyclable paper carryout bag to a customer must charge the customer 10 cents (\$0.10) for each bag provided, except as otherwise provided in this Chapter.

B. No store shall rebate or otherwise reimburse a customer any portion of the 10-cent (\$0.10) charge required in Subsection A, except as otherwise provided in this Chapter.

C. All stores must indicate on the customer receipt the number of recyclable paper carryout bags provided and the total amount charged for the bags.

D. All monies collected by a store under this Chapter will be retained by the store and may be used only for any of the following purposes: (1) costs associated with complying with the requirements of this Chapter, (2) actual costs of providing recyclable paper carryout bags, or (3) costs associated with a store's educational materials or education campaign encouraging the use of reusable bags, if any.

E. All stores must report to the Director of Public Works, on a quarterly basis, the total number of recyclable paper carryout bags provided, the total amount of monies collected for providing recyclable paper carryout bags, and a summary of any efforts a store has undertaken to promote the use of reusable bags by customers in the prior quarter. Such reporting must be done on a form prescribed by the Director of Public Works, and must be signed by a responsible agent or officer of the store confirming that the information provided on the form is accurate and complete. For the periods from January 1 through March 31, April 1 through June 30, July 1 through September 30, and October 1 through December 31, all

quarterly reporting must be submitted no later than 30 days after the end of each quarter.

F. If the reporting required in Subsection E is not timely submitted by a store, such store shall be subject to the fines set forth in Section 12.85.080. (Ord. 2010-0059 § 1, 2010.)

12.85.050 Use of reusable bags.

A. All stores must provide reusable bags to customers, either for sale or at no charge.

B. Each store is strongly encouraged to educate its staff to promote reusable bags and to post signs encouraging customers to use reusable bags. (Ord. 2010-0059 § 1, 2010.)

12.85.060 Exempt customers.

All stores must provide at the point of sale, free of charge, either reusable bags or recyclable paper carryout bags or both, at the store's option, to any customer participating either in the California Special Supplemental Food Program for Women, Infants, and Children pursuant to Article 2 (commencing with Section 123275) of Chapter 1 of Part 2 of Division 106 of the Health and Safety Code or in the Supplemental Food Program pursuant to Chapter 10 (commencing with Section 15500) of Part 3 of Division 9 of the Welfare and Institutions Code. (Ord. 2010-0059 § 1, 2010.)

12.85.070 Operative date.

This Chapter shall become operative on July 1, 2011, for stores defined in Subsections J(1) and J(2) of Section 12.85.010. For stores defined in Subsection J(3) of Section 12.85.010, this Chapter shall become operative on January 1, 2012. (Ord. 2010-0059 § 1, 2010.)

12.85.080 Enforcement and violation--penalty.

A. The Director of Public Works has primary responsibility for enforcement of this Chapter. The Director of Public Works is authorized to promulgate regulations and to take any and all other actions reasonable and necessary to enforce this Chapter, including, but not limited to, investigating violations, issuing fines and entering the premises of any store during business hours. The Director of the Department of Agricultural Commissioner/Weights and Measures and the Director of Public Health may assist with this enforcement responsibility by entering the premises of a store as part of their regular inspection functions and reporting any alleged violations to the Director of Public Works.

B. If the Director of Public Works determines that a violation of this Chapter has occurred, he/she will issue a written warning notice to the operator of a store that a violation has occurred and the potential

penalties that will apply for future violations.

C. Any store that violates or fails to comply with any of the requirements of this Chapter after a written warning notice has been issued for that violation shall be guilty of an infraction.

D. If a store has subsequent violations of this Chapter that are similar in kind to the violation addressed in a written warning notice, the following penalties will be imposed and shall be payable by the operator of the store:

A fine not exceeding one hundred dollars (\$100.00) for the first violation after the written warning notice is given;

A fine not exceeding two hundred dollars (\$200.00) for the second violation after the written warning notice is given; or

A fine not exceeding five hundred dollars (\$500.00) for the third and any subsequent violations after the written warning notice is given.

E. A fine shall be imposed for each day a violation occurs or is allowed to continue.

F. All fines collected pursuant to this Chapter shall be deposited in the Solid Waste Management Fund of the Department of Public Works to assist the department with its costs of implementing and enforcing the requirements of this Chapter.

G. Any store operator who receives a written warning notice or fine may request an administrative review of the accuracy of the determination or the propriety of any fine issued, by filing a written notice of appeal with the Director of Public Works no later than 30 days after receipt of a written warning notice or fine, as applicable. The notice of appeal must include all facts supporting the appeal and any statements and evidence, including copies of all written documentation and a list of any witnesses, that the appellant wishes to be considered in connection with the appeal. The appeal will be heard by a hearing officer designated by the Director of Public Works. The hearing officer will conduct a hearing concerning the appeal within 45 days from the date that the notice of appeal is filed, or on a later date if agreed upon by the appellant and the County, and will give the appellant 10 days prior written notice of the date of the hearing. The hearing officer may sustain, rescind, or modify the written warning notice or fine, as applicable, by written decision. The hearing officer will have the power to waive any portion of the fine in a manner consistent with the decision. The decision of the hearing officer is final and effective on the date

of service of the written decision, is not subject to further administrative review, and constitutes the final administrative decision. (Ord. 2010-0059 § 1, 2010.)

12.85.090 Severability.

If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be invalid by a decision of any court of competent jurisdiction, that decision will not affect the validity of the remaining portions of the ordinance. The Board of Supervisors hereby declares that it would have passed this ordinance and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of this ordinance would be subsequently declared invalid. (Ord. 2010-0059 § 1, 2010.)

12.85.100 No conflict with federal or state law.

Nothing in this ordinance is intended to create any requirement, power or duty that is in conflict with any federal or state law. (Ord. 2010-0059 § 1, 2010.)