

## RESOLUTION NUMBER R-301772

ADOPTED ON JULY 31, 2006

WHEREAS, on February 15, 2006, Shahram Assef, member, submitted an application on behalf of the owner, 4838 Market Street Property LLC, to the City of San Diego for approval of a Tentative Map to convert 7 existing residential apartment units into individually owned condominium units and an undergrounding overhead utilities waiver on a 0.188-acre site located at 4838 Market Street (hereinafter referred to as the 4838 Market Street Project); and

WHEREAS, said 4838 Market Street Project was assigned Project Number 96317 by the City of San Diego Development Services Department; and

WHEREAS, on March 4, 2006, the City of San Diego, through the Development Services Department, determined that the application for Project Number 96317 was complete and, therefore, was deemed complete on said date; and

WHEREAS, on March 15, 2006, the City of San Diego, as Lead Agency, through the Development Services Department, made and issued an Environmental Determination that the 4838 Market Street Project is a Class 1, Existing Facilities Project, Categorically Exempt from the California Environmental Quality Act [CEQA] (Public Resources Code section 21000 et. seq.) under CEQA Guideline section 15301(k) (California Code of Regulations section 15000, 15301(k)); and

WHEREAS, in accordance with CEQA (Public Resources Code section 21151(c)), and Section 112.0520 of the San Diego Municipal Code, Citizens for Responsible Equitable Environmental Development, care of Cory J. Briggs, Briggs Law Corporation (hereinafter,

Appellant) appealed the Environmental Determination for the 4838 Market Street Project to the Council of the City of San Diego (hereinafter, City Council); and

WHEREAS, the appeal was set for a public hearing to be conducted by the City Council on July 31, 2006; and

WHEREAS, the issues on appeal were heard, and evidence in the form of testimony and other evidence were accepted into the record, by the City Council on July 31, 2006; and

WHEREAS, the City Council considered, in light of the whole record, the Environmental Determination to Categorically Exempt the 4838 Market Street Project, the potential environmental impacts associated with the 4838 Market Street Project, the issues raised on appeal and the issues brought up at the hearing through testimony and public participation; and

WHEREAS, under Charter section 280(a)(2), this resolution is not subject to veto by the Mayor because this matter requires the City Council to act as a quasi-judicial body and where a public hearing was required by law implicating due process rights of individuals affected by the decision and where the City Council was required by law to consider evidence at the hearing and to make legal findings based on the evidence presented; NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, upon consideration of the whole record before it, that it is determined that the Environmental Determination has been completed in compliance with CEQA and the CEQA Guidelines, that the declaration reflects the independent judgment of the City of San Diego as Lead Agency, and that the information contained in the Development Services Department staff report and testimony and comments received during the public testimony process have been reviewed and considered by this City Council in connection with the appeal of the Environmental Determination.

BE IT FURTHER RESOLVED, that the City Council finds, based upon the representations of City staff, public testimony and the whole record before it, the following:


1. There is substantial evidence, in light of the whole record, supporting the Environmental Determination to Categorically Exempt the 4838 Market Street Project under the provisions of CEQA Guidelines section 15301(k);

2. A fair argument, based upon evidence found in the whole record, has not been established demonstrating that exceptions to the Categorical Exemption, within the meaning of CEQA and the CEQA Guidelines (California Code of Regulations section 15300.2), exist with respect to the 4838 Market Street Project; and


3. Based upon substantial evidence in light of the whole record, the 4838 Market Street Project would not result in any significant or potentially significant impacts or effects on the environment.

BE IT FURTHER RESOLVED, that the Environmental Determination of the Development Services Department is sustained, and the appeal of Citizens for Responsible Equitable Environmental Development, care of Cory J. Briggs, Briggs Law Corporation, is denied.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By   
Karen Heumann  
Assistant City Attorney

KH:jb  
08/23/06  
Or. Dept: Clerk  
R-2007-211

 301772