

RESOLUTION NUMBER R- 304100

DATE OF FINAL PASSAGE SEP 09 2008

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN
DIEGO GRANTING REQUEST TO STAY (TOLL)
EXPIRATION DATE FOR THE TENTATIVE MAP AND
ASSOCIATED DEVELOPMENT PERMIT APPROVALS FOR
29 CONDOMINIUM CONVERSION PROJECTS.

WHEREAS, Citizens for Responsible Equitable Environmental Development [CREED] has several pending lawsuits regarding condominium conversions; and

WHEREAS, due to the volume of projects for this general single-issue, the staff has consolidated the format in this one request; and

WHEREAS, for the purposes of this action, they are named CREED I, CREED II, CREED III, and CREED IV; and

WHEREAS, some of these projects have submitted their Final Maps for review, and each of these projects have been dismissed from the CREED I, II, III, and IV cases; and

WHEREAS, these 29 condominium conversion projects were originally reviewed under CEQA and all were determined to be exempt from CEQA per CEQA Guidelines Section 15301, Existing Facilities. The request to stay (toll) the expiration dates is not a "project," and therefore not subject to CEQA review pursuant to CEQA State Guidelines Section 15060(c)(2); and

WHEREAS, Evelyn Heidelberg, the legal counsel for the applicants of these 29 condominium conversion projects, has requested that the City Council consider a resolution to stay (toll) the expiration dates of the Tentative Maps (and associated development permits) approvals due to the legal actions by CREED I, II, III, and IV; 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 Council was required by law to consider evidence at the hearing and to make legal findings based on the evidence presented; and

WHEREAS, City Council is authorized to stay (toll) the lives of tentative maps for the period in which they are challenged by litigation pursuant to Government Code section 66452.6(c); and

WHEREAS, the issue was heard by the City Council on September 9, 2008; NOW,
THEREFORE,

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

1. to adopt Resolution No. R-304100 as amended.
2. to deny staff's recommendation and grant the tolling request for the 29 projects, by the length of time each project was subject to legal challenge, as set forth in the charts at Exhibit A, numbered I through IV, corresponding to CREED cases I through IV, each entitled "Citizens for Responsible Equitable Environmental Development, et al."

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By Marianne Greene
Marianne Greene
Deputy City Attorney

MG:als

(R-2009-129)
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10/29/08 REV.COPY
11/06/08 REV.COPY.1
Or.Dept:DSD
R-2009-129
MMS#6596

ATTACHMENT: Exhibit A – Chart for 29 Tolling

I. Citizens for Responsible Equitable Environmental Development, et al. v. City of San Diego, et al. (San Diego Superior Court Case No. GIC 858098; California Court of Appeal Case No. D049637) ("CREED I") – Filed Dec. 9, 2005¹; Amended May 2, 2006²

#	Project	Address	Real Party	TM Approved	Original Expiration Date	Date of Dismissal	Days Subject to Challenge	New Expiration Date
1 /	50742	2015 Robinson Avenue	L-20, LLC	12/15/05 (TM Approval #146010)	12/14/08	12/27/07	605	8/10/10
2 /	62881	1801-1843 Myrtle Ave. and 1804-1826 Upas	Terrace Park Corporation	1/12/06 (TM Approval #187174)	1/11/09	7/13/07	438	3/24/10
3 /	67478	3746 31 st Street	North View Partners, LLC	10/27/05 (TM Approval #203629)	10/26/08	7/13/07	582	5/30/10
4 /	73745	4585 Hamilton Street	D and B Family Trust	3/16/06 (TM Approval #225872)	3/15/09	12/27/07	605	11/9/10
5 /	75067	610 West Laurel Ave.	Dan Floit	11/10/05 (TM Approval #230692)	11/9/08	12/27/07	749	11/27/10
6 /	77455	4342 Idaho Street	William and Charlene Duke Properties, LP	12/15/2005 (TM Approval #240023)	12/14/08	7/13/07	575	6/12/10
7 /	77457	4144-4152 32 nd Street	William and Charlene Duke Properties, LP	12/15/2005 (TM Approval #240032)	12/14/08	7/13/07	575	6/12/10
8 /	78882	4657 Oregon Street	Terry Moore CCIM, Inc. Deferred Benefit Pension Plan	3/16/06 (TM Approval #245521)	3/15/09	7/13/07	438	5/26/10

¹ See Tab B

² See Tab C

II. Citizens for Responsible Equitable Environmental Development, et al. v. City of San Diego, et al. (San Diego Superior Court Case No. GIC 871259) ("CREED IP") – Filed August 22, 2006³

#	Project	Address	Real Party	TM Approved	Original Expiration Date	Date of Dismissal	Days Subject to Challenge	New Expiration Date
9 ✓	68048	4074 Cherokee Avenue	Estate Restorations LLC	5/11/06 (TM Approval #205720)	5/10/09	7/18/07	443	7/26/10
10 ✓	73427	4469 Ohio Street	NP 31, LLC	3/30/06 (TM Approval #228970)	3/29/09	5/11/07	375	4/6/10
11 ✓	74764	4816-4828 West Mountain View	MELL 45, LLC	6/8/06 (TM Approval #229669)	6/7/09	5/11/07	375	6/16/10
12 ✓	75019	445 West University	445 West University, LP	7/20/06 (TM Approval #230565)	7/19/09	5/11/07	375	7/28/10
13 ✓	76069	3812 Keating Street	JJ Galt, LLC	5/18/06 (TM Approval #234392)	5/17/09	5/11/07	375	5/26/10
14 ✓	77270	3989 Richmond Street	R LLC	6/8/06 (TM Approval # 239303)	6/7/09	5/11/07	375	6/16/10
15 ✓	78317	4658 East Mountain View Drive	David Stebbins Trust Established December 4, 2003 and Paul L. Louchis Revocable Trust	5/18/06 (TM Approval #243230)	5/17/09	5/11/07	375	5/26/10
16 ✓	78325	4757-4797 A Street	David Stebbins Trust Established Dec. 4, 2003	6/15/06 (TM Approval #243255)	6/14/09	5/11/07	375	6/23/10
17 ✓	78951	4555 Vandever Street	Mission Arbor Apartments, LP	7/13/06 (TM Approval #245781)	7/12/09	5/11/07	375	7/20/10

³ See Tab D

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II. Citizens for Responsible Equitable Environmental Development, et al. v. City of San Diego, et al. (San Diego Superior Court Case No. GIC 871259) ("CREED IP") – Filed August 22, 2006³

#	Project	Address	Real Party	TM Approved	Original Expiration Date	Date of Dismissal	Days Subject to Challenge	New Expiration Date
18 ✓	78968	4450 Boundary Street	L-20, LLC	6/8/06 (TM Approval # 245889)	6/7/09	5/11/07	375	6/16/10
19 ✓	80837	4718 Kenmore Terrace	Dan Floit	3/16/06 (TM Approval #252905)	3/15/09	5/11/07	375	5/24/10
20 ✓	81200	4447 49 th Street	Scott Cass	5/25/06 (TM Approval #254118)	5/24/09	5/11/07	375	6/2/10
21 ✓	81211	4435 Estrella Street	Scott Cass	6/29/06 (TM Approval #254165)	6/28/09	5/11/07	375	7/7/10
21a ✓	81193	4728 Lamont Street	Gerald J. Hudec	6/29/06 (TM Approval #254094)	6/28/09	5/11/07	375	7/7/10
22 ✓	81215	4517 West Point Loma	Cass Plumbing and Heating dba The Cass Company	3/2/06 (TM Approval #254175)	3/1/09	5/11/07	375	3/10/10
23 ✓	81567	4436 56 th Street	4438 Properties, LLC	6/22/06 (TM Approval #255399)	6/21/09	5/5/2008	683	5/5/2011
24 ✓	82975	4674 Utah Street	Ward Family Trust	6/29/06 (TM Approval #264834)	6/28/09	5/11/07	375	7/7/10
25 ✓	86204	3654 42 nd Street	Good Steward Enterprises, LLC	5/18/06 (TM Approval #276447)	5/17/09	5/11/07	375	5/26/10
25a ✓	63383	4845-4855 70 th Street	Norbert Brauberger	6/08/2006 (TM Approval #188948)	6/07/2009	06/02/08	725	6/02/2011

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III. Citizens for Responsible Equitable Environmental Development, et al. v. City of San Diego, et al. (San Diego Superior Court Case No. GIC 876017) ("CREED III") - Filed November 27, 2006⁴

#	Project	Address	Real Party	TM Approved	Original Expiration Date	Date of Dismissal	Days Subject to Challenge	New Expiration Date
26 /	84521	2404 C Street	CJAG, LLC	11/2/06 (TM Approval #267933)	11/1/09	5/17/07	381	11/16/10

⁴ See Tab E

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IV. Citizens for Responsible Equitable Environmental Development, et al. v. City of San Diego, et al. (San Diego Superior Court Case No. 37-2008-00078171-CU-TT-CTL) ("CREED IV") – Filed February 19, 2008⁵

#	Project	Address	Real Party	TM Approved	Original Expiration Date	Date of Dismissal	Days Subject to Challenge	New Expiration Date
27	78971	4545 Georgia Street	GE, LLC	01/24/2008	01/23/2011	5/12/2008	109	5/12/2011

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⁵ See Tab F