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**ENDORSED  
FILED  
ALAMEDA COUNTY**

**NOV 12 2013**

CLERK OF THE SUPERIOR COURT  
By AN Kanae, Deputy

5 Attorneys for Petitioners  
6 COALITION FOR RESPONSIBLE BUILDING STANDARDS;  
CALIFORNIA STATE PIPE TRADES COUNCIL; and  
7 JOINT COMMITTEE ON ENERGY AND ENVIRONMENTAL POLICY

8 **SUPERIOR COURT OF CALIFORNIA**  
9 **COUNTY OF ALAMEDA**

10 COALITION FOR RESPONSIBLE BUILDING  
11 STANDARDS; CALIFORNIA STATE PIPE  
TRADES COUNCIL; and JOINT  
12 COMMITTEE ON ENERGY AND  
13 ENVIRONMENTAL POLICY,

Case No.: RG13681364

**STIPULATED JUDGMENT**

(California Environmental Quality Act,  
Pub. Resources Code, § 21000 et seq.;  
Code Civ. Proc., § 1085.)

Petitioners.

vs.

ASSIGNED FOR ALL PURPOSES:  
Hon. Frank Roesch  
Department 24

16 CALIFORNIA BUILDING STANDARDS  
17 COMMISSION, a public agency;  
CALIFORNIA OFFICE OF STATEWIDE  
18 HEALTH PLANNING AND  
DEVELOPMENT, a public agency; and DOES  
19 1 through 10, inclusive,

Petition Filed: May 29, 2013

Respondents.

22 WHEREAS, the parties to this Stipulated Judgment are Petitioners Coalition for  
23 Responsible Building Standards, California State Pipe Trades Council, and Joint Committee  
24 on Energy and Environmental Policy (collectively "Petitioners") and Respondents California  
25 Office of Statewide Health Planning and Development ("Respondent OSHPD") and  
26 California Building Standards Commission ("Respondent Commission");

27 WHEREAS, on April 24, 2013, Respondent Commission adopted and approved  
28 amendments to the California Building Standards Code that created a new "OSHPD 3SE"

**STIPULATED JUDGMENT**

1 primary care clinic occupancy, and that (a) exempted OSHPD 3SE clinics from the  
2 requirement that plumbing vents terminate at least 25 feet away from any air intake or vent  
3 shaft; (b) exempted OSHPD 3SE clinics from the requirement to disinfect new or repaired  
4 potable water systems prior to use; (c) exempted OSHPD 3 clinics from the prohibition on  
5 the use of CPVC drinking water pipe and fittings; and (d) exempted OSHPD 3 clinics from  
6 the prohibition on the use of PVC and ABS drainage pipe and fittings (referred to  
7 collectively as the "OSHPD 3 Amendments");

8 WHEREAS the OSHPD 3 Amendments are scheduled to become effective on  
9 January 1, 2014;

10 WHEREAS, the Respondents did not prepare an Initial Study, Negative Declaration,  
11 Environmental Impact Report, or Notice of Exemption for the OSHPD 3 Amendments prior  
12 to the April 24, 2013 approval;

13 WHEREAS, Petitioners brought this action seeking a writ of mandate and  
14 preliminary and permanent injunctive relief, alleging that Respondents' approval and  
15 adoption of the OSHPD 3 Amendments was unlawful because it did not comply with CEQA;

16 WHEREAS, Petitioners and Respondents (collectively "the Parties") wish to resolve  
17 all claims between the Parties;

18 WHEREAS, on October 22, 2013, the superior court issued an alternative writ of  
19 mandate in this action;

20 WHEREAS, the OSHPD 3 Amendments are located in the 2013 edition of the  
21 California Plumbing Code (Cal. Code Regs., tit. 24, Part 5) at sections 217.0, 604.1, 609.9,  
22 613.2,<sup>1</sup> 701.1<sup>2</sup> and 906.2.1.<sup>3</sup>

23 WHEREAS, in the interests of reaching resolution, Respondents have agreed to  
24 comply with the alternative writ and to carry out review or analysis as described in California

25 <sup>1</sup> This section is not referenced in the Petition or the Alternative Writ, but is one of the sections approved by the  
26 Commission on April 24, 2013 in relation to OSHPD 3, and it contains direct reference to OSHPD 3 as defined  
in section 217.0.

27 <sup>2</sup> The Petition and the Alternative Writ reference Section 701.1.2.1. That section, approved by Respondent  
Commission on April 24, 2013, was renumbered and codified at section 701.1.

28 <sup>3</sup> The Petition and the Alternative Writ reference Section 906.2. That section, approved by Respondent  
Commission on April 24, 2013, was renumbered and codified at section 906.2.1.

1 Code of Regulations, title 14, division 6, chapter 3, prior to any re-promulgation of the  
2 OSHPD 3 Amendments.

3 WHEREAS, the Parties consent to the entry of this Stipulated Judgment to resolve all  
4 remaining claims between the Parties;

5 THEREFORE, THE PARTIES HEREBY AGREE AND IT IS ADJUDGED AND  
6 ORDERED AS FOLLOWS:

7 1. Writ of Mandate: Respondents shall comply with the Alternative Writ of  
8 Mandate issued by the superior court on October 22, 2013.

9 2. Attorney's Fees and Costs: Petitioners are awarded their costs of suit. On or  
10 before December 15, 2013, Respondent OSHPD and Respondent Commission shall each pay  
11 to Petitioners the sum of \$54,000, for a total payment of \$108,000. This amount comprises  
12 full payment of attorney's fees and costs for this action. Payment shall be made payable to:  
13 Adams Broadwell Joseph & Cardozo – Client Trust Account. Payment shall be delivered to:

14 Thomas A. Enslow  
15 Adams Broadwell Joseph & Cardozo  
16 520 Capitol Mall, Suite 350  
17 Sacramento, CA 95814  
Telephone: (916) 444-6201

18 3. Entire Agreement: This Stipulated Judgment, together with the alternative  
19 writ referenced herein, constitute the entire agreement and understanding between the  
20 Parties. All agreements or representations, expressed or implied, of the Parties with regard to  
21 this subject matter are contained in this Stipulated Judgment. The Parties acknowledge that  
22 there are no other warranties, promises, assurances or representations of any kind, express or  
23 implied, upon which the Parties have relied in entering into this agreement, unless expressly  
24 set forth herein. All prior representations, understandings and agreements between any or all  
25 of the Parties concerning settlement are superseded by this agreement. The terms of this  
26 Stipulated Judgment shall not be changed, revised or modified except by written agreement  
27 signed by the Parties to this agreement.

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1           4.     No Admission of Fault or Liability. Nothing contained herein shall be  
2 construed as an admission by any party hereto of any fault, wrong doing, or liability of any  
3 kind to any other party. The Parties hereby expressly deny that they are in any way liable to  
4 any other party to this Stipulated Judgment.

5           5.     Acknowledgment of Terms. The Parties have read and understood the terms  
6 of this Stipulated Judgment, have had the opportunity to consult with counsel regarding those  
7 terms, and understand and acknowledge the significance and consequence of each such term.

8           6.     Parties Affected. This Stipulated Judgment shall be binding upon and inure to  
9 the benefit of the Parties hereto.

10          7.     Warranty. Each person signing this Stipulated Judgment warrants that he or  
11 she has authority to execute this agreement and to hereby bind the Party or Parties on whose  
12 behalf he or she is signing to the terms of this agreement. Where legal counsel has executed  
13 this document on behalf of a party or parties, counsel warrants and represents that the party  
14 or parties has or have reviewed and agreed to the terms of this Stipulated Judgment and has  
15 or have expressly authorized Counsel to sign on their behalf and to bind the party or parties  
16 to the terms of this agreement.

17          8.     Construction. The Stipulated Judgment is the product of negotiation and  
18 preparation by and among each Party hereto and their respective attorneys. Accordingly, the  
19 Stipulated Judgment shall not be construed against the Party preparing it. The paragraph  
20 headings are included for convenience only and are not intended to be operative as part of  
21 this agreement.

22          9.     Execution of Documents. The Parties agree to execute this Stipulated  
23 Judgment and all such other documents as are reasonably necessary to effect the terms and  
24 conditions of this Stipulated Judgment. The Stipulated Judgment may be executed in  
25 counterparts, each of which shall be considered an original.

26                     The Parties do hereby agree to the full performance of the terms set forth  
27 herein and respectfully submit this Stipulated Judgment for approval.

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1 **SO AGREED, AND APPROVED AS TO SUBSTANCE AND FORM:**

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Dated: 10/31/2013

By: Thomas A. Enslow  
THOMAS A. ENSLOW  
*Adams, Broadwell, Joseph & Cardozo*  
on behalf of Petitioners: Coalition for  
Responsible Building Standards, California  
State Pipe Trades Council, and Joint Committee  
on Energy and Environmental Policy

Dated: 11-1-13

Robert P. David  
Robert P. David  
*Director of Office of Statewide Health Planning  
and Development*

Dated: 11-6-13

James M. McGowan  
James M. McGowan  
*Executive Director  
California Building Standards Commission*

**APPROVED AS TO FORM:**

Dated: 11/6/13

Matthew Bullock  
Matthew Bullock  
*Deputy Attorney General  
California Department of Justice  
Attorney for Respondents Office of Statewide  
Health Planning and Development and  
California Building Standards Commission*

**STIPULATED JUDGMENT**

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**APPROVED, ORDERED, AND ADJUDGED:**

Dated: NOV 11 2013

FRANK ROESCH

Hon. Frank Roesch  
Judge of the Superior Court

Judgment entered on \_\_\_\_\_, in the Judgment

Book, Volume No. \_\_\_\_\_ page \_\_\_\_\_.

\_\_\_\_\_, Clerk

1 **PROOF OF SERVICE**

2 **STATE OF CALIFORNIA, COUNTY OF SACRAMENTO**

3 I am employed in the County of Sacramento, California. I am over the age of 18 and not a  
4 party to the within action. My business address is Adams Broadwell Joseph & Cardozo, 520  
5 Capitol Mall, Suite 350, Sacramento, California, 95814.

6 On November 11, 2013 I served the foregoing document(s) described as: **STIPULATED**  
7 **JUDGMENT** on the interested parties in this action by transmitting a copy as follows:

8 **SEE ATTACHED SERVICE LIST**

9 **By ELECTRONIC FILING** (I electronically filed the foregoing with the Clerk of the  
10 Court using the CM/ECF system which will send notification of such filing to counsel  
denoted on the attached Service List.)

11 **By PERSONAL SERVICE**

- 12 \_\_\_\_\_ by personally delivering such envelope to the addressee.
- 13 \_\_\_\_\_ by causing such envelope to be delivered by messenger to the office of the  
addressee.

14 **By UNITED STATES MAIL** (I am readily familiar with the firm's practice of collection  
15 and processing correspondence for mailing. Under that practice it would be deposited with  
16 U.S. Postal Service on that same day with postage thereon fully prepaid at Sacramento,  
California in the ordinary course of business. I am aware that on motion of the party served,  
17 service is presumed invalid if postal cancellation date or postage meter date is more than one  
day after date of deposit for mailing in affidavit.)

X

18 **By OVERNIGHT DELIVERY** (by causing such envelope to be delivered to the office of  
19 the addressee by overnight delivery via Federal Express or by other similar overnight  
delivery service.)

20 **By FAX TRANSMISSION**

21 (State) I declare under penalty of perjury under the laws of the State of California that the  
22 above is true and correct.

X

23 (Federal) I declare that I am employed in the office of a member of the bar of this court at  
24 whose direction the service was made.

Executed on November 11, 2013, at Sacramento, California.

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*Lorrie Lele*

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LORRIE LELE

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| Matthew Bullock<br>Deputy Attorney General<br>California Department of Justice<br>Natural Resources Law Section<br>455 Golden Gate Ave., Suite 11000<br>San Francisco, CA 94102-7004 |  |
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