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Ojai Valley Sanitary District

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8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 COUNTY OF VENTURA

10
11 RICHARD H. VANE, Trustee of the Vane
Family Trust,

12 Petitioner,

13 v.

14 OJAI VALLEY SANITARY DISTRICT, a
15 public agency,

16 Respondent.

Case No.: 56-2022-000567385-CU-WM-VTA

**ANSWER TO VERIFIED PETITION FOR
WRIT OF ADMINISTRATIVE MANDATE**

[Exempt from filing fees pursuant to
Government Code § 6103]

Action Filed: June 29, 2022

1 Respondent Ojai Valley Sanitary District (“OVSD”) responds to petitioner Richard H.
2 Vane’s Verified Petition for Writ of Administrative Mandate (“Petition”) as follows:

3 1. Answering Paragraph 1 of the Petition, OVSD lacks information or belief to answer
4 the allegations of this paragraph, and on that basis, denies these allegations.

5 2. Answering Paragraph 2 of the Petition, OVSD admits that it is a public agency
6 sanitary sewer district authorized and organized pursuant to Health & Safety Code section 6400 *et*
7 *seq.* (Sanitary District Act of 1923).

8 3. Answering Paragraph 3 of the Petition, OVSD admits that the terms of OVSD Code
9 of Regulations § 917.5 and OVSD Resolution No. 2013-10 speak for themselves. Except as
10 expressly admitted, OVSD denies each and every allegation contained therein.

11 4. Answering Paragraph 4 of the Petition, OVSD admits that a public hearing was held
12 on March 28, 2022, before the OVSD Board of Directors to decide whether to uphold the decision of
13 OVSD’s General Manager to issue Petitioner a Notice of Violation for failure to pay sanitary sewer
14 connection and capacity fees for a standalone or free-standing Accessory Dwelling Unit constructed
15 on Petitioner’s property. Except as expressly admitted, OVSD denies each and every allegation
16 contained therein.

17 5. Answering Paragraphs 4(a) through 4(h) of the Petition, OVSD admits that the
18 grounds for the decisions made by the OVSD Board of Directors at the hearing held on March 28,
19 2022, are contained in documents and recordings contained in the administrative record for this
20 matter, which speak for themselves. Except as expressly admitted, OVSD denies each and every
21 allegation contained therein.

22 6. Answering lines 1-28 on page 3 of the Petition, OVSD admits that the grounds for the
23 decisions made by the OVSD Board of Directors at the hearing held on March 28, 2022, are
24 contained in documents and recordings contained in the administrative record for this matter, which
25 speak for themselves. Except as expressly admitted, OVSD denies each and every allegation
26 contained therein.

27 7. Answering lines 3-4 on page 4 of the Petition, OVSD admits that the Petition seeks a
28 writ of mandate. Except as expressly admitted, OVSD denies each and every allegation contained

1 therein.

2 8. Answering lines 7-10 on page 4 of the Petition, OVSD denies each and every
3 allegation contained therein.

4 9. Answering lines 13-18 on page 4 of the Petition, OVSD admits that the provisions of
5 Government Code section 65852.150 speak for themselves. Except as expressly admitted, OVSD
6 denies each and every allegation contained therein.

7 10. Answering lines 20-31 on page 4 of the Petition and lines 1-3 on page 5 of the
8 Petition, OVSD admits that the provisions of Government Code section 65852.2 speak for
9 themselves. Except as expressly admitted, OVSD denies each and every allegation contained
10 therein.

11 11. Answering lines 5-9 on page 5 of the Petition, OVSD lacks sufficient information or
12 belief to admit or deny the allegations contained therein, and basing its denial on that ground, denies
13 the allegations therein.

14 12. Answering lines 11-14 on page 5 of the Petition, OVSD denies that OVSD's
15 Ordinance No. OVSD-82 incorrectly defines connections eligible for application of capacity fees
16 and admits that the provisions of Ordinance No. OVSD-82 speak for themselves. Except as
17 expressly admitted, OVSD denies each and every allegation contained therein.

18 13. Answering lines 16-31 of page 5 of the Petition and lines 2-28 of page 6 of the
19 Petition, OVSD admits that the provisions of Ordinance No. OVSD-82 speak for themselves.
20 Except as expressly admitted, OVSD denies each and every allegation contained therein.

21 14. Answering lines 1-3 on page 7 of the Petition, OVSD denies each and every
22 allegation contained therein.

23 15. Answering line 5 on page 7 of the Petition, OVSD denies each and every allegation
24 contained therein.

25 16. Answering lines 7-19 on page 7 of the Petition, OVSD admits the following: that
26 Petitioner submitted an application for sewer service to OVSD on February 1, 2021; that OVSD
27 issued a "will-serve" letter to Petitioner on February 1, 2021; that OVSD issued an invoice to
28 Petitioner in June 2021 with the amount due of \$12,53.08. Except as expressly admitted, OVSD

1 denies each and every allegation contained therein.

2 17. Answering lines 21-24 on page 7 of the Petition, OVSD denies each and every
3 allegation contained therein.

4 18. Answering lines 25-27 on page 7 of the Petition, OVSD lacks information or belief to
5 answer the allegations contained therein, and on that basis, denies these allegations.

6 19. Answering lines 27-30 on page 7 of the Petition, OVSD admits that Ordinance No.
7 OVSD-82 was passed and adopted on April 26, 2021. Except as expressly admitted, OVSD denies
8 each and every allegation contained therein.

9 20. Answering lines 30-31 on page 7 of the Petition, OVSD incorporates by reference its
10 answers to lines 7-19 on page 7 of the Petition. Except as expressly admitted, OVSD denies each
11 and every allegation contained therein.

12 21. Answering the sentence beginning on line 31 on page 7 of the Petition and ending on
13 lines 1-2 on page 8 of the Petition, the allegations contained therein constitute legal conclusions and
14 questions of law for which no response is required. To the extent that the Court requires a response,
15 OVSD denies these allegations.

16 22. Answering the sentence beginning on line 2 on page 8 of the Petition and ending on
17 line 3 on page 8 of the Petition, the allegations contained therein constitute legal conclusions and
18 questions of law for which no response is required. To the extent that the Court requires a response,
19 OVSD denies these allegations.

20 23. Answering the sentence beginning on line 3 on page 8 of the Petition and ending on
21 line 6 on page 8 of the Petition, OVSD lacks information or belief to answer the allegations about
22 Petitioner contained therein, and on that basis, denies these allegations. OVSD denies the remaining
23 allegations contained therein.

24 24. Answering the sentence beginning on line 8 on page 8 of the Petition and ending on
25 line 9 on page 8 of the Petition, the allegations contained therein constitute legal conclusions and
26 questions of law for which no response is required. To the extent that the Court requires a response,
27 OVSD denies these allegations.

28 25. Answering the sentence beginning on line 9 on page 8 of the Petition and ending on

1 line 12 on page 8 of the Petition, OVSD admits that the provisions of Ordinance No. OVSD-82
2 speak for themselves. Except as expressly admitted, OVSD denies each and every allegation
3 contained therein.

4 26. Answering the sentence beginning on line 12 on page 8 of the Petition and ending on
5 line 15 on page 8 of the Petition, OVSD admits that the provisions of Government Code section
6 65852.2(f) speak for themselves. Except as expressly admitted, OVSD denies each and every
7 allegation contained therein.

8 27. Answering the sentence beginning on line 15 on page 8 of the Petition and ending on
9 line 16 on page 8 of the Petition, OVSD denies each and every allegation contained therein.

10 28. Answering the sentence beginning on line 16 on page 8 of the Petition and ending on
11 line 18 on page 8 of the Petition, OVSD lacks information or belief to answer the allegations about
12 Petitioner contained therein, and on that basis, denies these allegations. OVSD denies the remaining
13 allegations contained therein.

14 29. Answering the sentence beginning on line 18 on page 8 of the Petition and ending on
15 line 21 on page 8 of the Petition, OVSD lacks information or belief to answer the allegations about
16 “[t]his letter” contained therein, and on that basis, denies these allegations. OVSD denies the
17 remaining allegations contained therein.

18 30. Answering the sentence beginning on line 21 on page 8 of the Petition and ending on
19 line 22 on page 8 of the Petition, OVSD lacks information or belief to answer the allegations about
20 Petitioner contained therein, and on that basis, denies these allegations. OVSD denies the remaining
21 allegations contained therein.

22 31. Answering the sentence beginning on line 22 on page 8 of the Petition and ending on
23 line 23 on page 8 of the Petition, OVSD denies each and every allegation contained therein.

24 32. Answering the sentence on line 23 on page 8 of the Petition, the allegations contained
25 therein constitute legal conclusions and questions of law for which no response is required. To the
26 extent that the Court requires a response, OVSD denies these allegations.

27 33. Answering the paragraph beginning on line 26 on page 8 of the Petition and ending
28 on line 28 on page 8 of the Petition, OVSD lacks information or belief to answer the allegations

1 about the authenticity of exhibits contained therein, and on that basis, denies these allegations.
2 OVSD affirmatively alleges that the entire administrative record is available from OVSD and
3 Petitioner has failed to request a copy of the entire record from OVSD pursuant to Code of Civil
4 Procedure section 1094.6(c) and Petitioner has failed to submit the entire administrative record with
5 his Petition to the Court pursuant to Code of Civil Procedure section 1094.5(a). Except as expressly
6 admitted, OVSD denies each and every allegation contained therein.

7 34. Answering the paragraph on lines 3-5 on page 9 of the Petition, OVSD lacks
8 information or belief to answer the allegations about Petitioner contained therein, and on that basis,
9 denies these allegations. OVSD denies the remaining allegations contained therein.

10 35. Answering the paragraph on lines 7-8 on page 9 of the Petition, OVSD admits that it
11 is a public agency located at 1072 Tico Road, Ojai, California 93023. Except as expressly admitted,
12 OVSD denies each and every allegation contained therein.

13 36. Answering the paragraph on lines 12-15 on page 9 of the Petition, OVSD admits that
14 this Court has jurisdiction over this action, that venue is proper in this Court, and that the provisions
15 of Code of Civil Procedure sections 393, 394(a), 1085, and 1094.5 speak for themselves. Except as
16 expressly admitted, OVSD denies each and every allegation contained therein.

17 37. Answering the paragraph on lines 19-20 on page 9 of the Petition, OVSD denies each
18 and every allegation contained therein.

19 38. Answering the sentence on line 22 on page 9 of the Petition, OVSD admits that the
20 fee schedules published by OVSD speak for themselves. Except as expressly admitted, OVSD
21 denies each and every allegation contained therein.

22 39. Answering the paragraph on lines 24-28 on page 9 of the Petition, OVSD lacks
23 information or belief to answer the allegations about Petitioner contained therein, and on that basis,
24 denies these allegations. To the extent the allegations contained therein constitute legal conclusions
25 and questions of law, no response is required. To the extent that the Court requires a response,
26 OVSD denies these allegations.

27 40. Answering the paragraph on lines 30-31 on page 9 of the Petition, OVSD lacks
28 information or belief to answer the allegations about Petitioner contained therein, and on that basis,

1 denies these allegations.

2 41. Answering lines 2-3 on page 10 of the Petition, OVSD lacks information or belief to
3 answer the allegations contained therein, and on that basis, denies these allegations.

4 42. Answering lines 5-6 on page 10 of the Petition, OVSD admits that on January 29,
5 2021, OVSD General Manager Jeff Palmer received an email from Petitioner with a PDF attachment
6 containing a copy of an application for sewer service signed by Petitioner and dated July 17, 2020.
7 Except as expressly admitted, OVSD denies each and every allegation contained therein.

8 43. Answering lines 8-12 on page 10 of the Petition, OVSD admits that it received a
9 Letter of Technical Assistance dated November 23, 2020, from Department of Housing and
10 Community Development, and admits that the contents of the letter speak for themselves. Except as
11 expressly admitted, OVSD denies each and every allegation contained therein.

12 44. Answering lines 14-17 on page 10 of the Petition, OVSD incorporates by reference its
13 answers to lines 7-19 on page 7 of the Petition. Except as expressly admitted, OVSD denies each
14 and every allegation contained therein.

15 45. Answering line 19 on page 10 of the Petition, OVSD admits that it inspected and
16 reviewed Petitioner's private sewer lateral on February 24, 2021. Except as expressly admitted,
17 OVSD denies each and every allegation contained therein.

18 46. Answering lines 21-22 on page 10 of the Petition, OVSD admits that it served
19 Petitioner with a letter dated February 25, 2021, notifying Petitioner that the private sewer lateral
20 located at 30 La Cumbra Street in Oak View, California, is deficient and must either be repaired or
21 replaced. Except as expressly admitted, OVSD denies each and every allegation contained therein.

22 47. Answering lines 24-27 on page 10 of the Petition, OVSD lacks information or belief
23 to answer the allegations about Petitioner contained therein, and on that basis, denies these
24 allegations.

25 48. Answering lines 29-30 on page 10 of the Petition, OVSD lacks information or belief
26 to answer the allegations about Petitioner contained therein, and on that basis, denies these
27 allegations.

28 49. Answering lines 1-7 on page 11 of the Petition, OVSD admits that Ordinance No.

1 OVSD-82 was passed and adopted on April 26, 2021, and admits that the provisions of Ordinance
2 No. OVSD-82 speak for themselves. Except as expressly admitted, OVSD denies each and every
3 allegation contained therein.

4 50. Answering lines 9-11 on page 11 of the Petition, OVSD lacks information or belief
5 to answer the allegations about Petitioner contained therein, and on that basis, denies these
6 allegations.

7 51. Answering lines 13-15 on page 11 of the Petition, OVSD admits that it conducted a
8 site inspection of the subject property on May 24, 2021, to confirm the plumbing or drainage fixture
9 unit count of the new, standalone ADU constructed on the subject property, in order to determine the
10 proportional sewer capacity charge, per the provisions of OVSD-82. Except as expressly admitted,
11 OVSD denies each and every allegation contained therein.

12 52. Answering lines 17-18 on page 11 of the Petition, OVSD admits that it sent a letter
13 dated June 23, 2021, to the property owners, including Petitioner, of the New Manufactured Home-
14 Dwelling Unit (ADU) located at 30 La Cumbra Street, Oak View, California, indicating that the fees
15 due for the new ADU amount to a total of \$12,653.08. Except as expressly admitted, OVSD denies
16 each and every allegation contained therein.

17 53. Answering lines 20-21 on page 11 of the Petition, OVSD admits that it sent a "Notice
18 of Violation" dated August 24, 2021, to the property owners of 30 La Cumbra Street, Oak View,
19 California, including Petitioner, based on the unpermitted connection of a structure to the District's
20 sewer system in violation of OSVD Code Chapter 6, Section 608, and indicating that fees for the 2nd
21 dwelling-unit ADU located on the property came to a total of \$12,653.08 and were due on July 23,
22 2021. To the extent that the allegations contained therein are about Petitioner, OVSD lacks
23 information or belief to answer the allegations about Petitioner, and on that basis, denies these
24 allegations. Except as expressly admitted, OVSD denies each and every allegation contained
25 therein.

26 54. Answering lines 23-24 on page 11 of the Petition, OVSD admits that it received a
27 Request for Hearing on Notice of Violation from the Petitioner on October 21, 2021, requesting a
28 hearing before the General Manager, and that OVSD sent a notice of hearing letter to Petitioner on

1 November 8, 2021. To the extent that the allegations contained therein are about Petitioner, OVSD
2 lacks information or belief to answer the allegations about Petitioner, and on that basis, denies these
3 allegations. Except as expressly admitted, OVSD denies each and every allegation contained
4 therein.

5 55. Answering lines 26-27 on page 11 of the Petition, OVSD admits that the hearing
6 before the General Manager was held on November 22, 2021. To the extent that the allegations
7 contained therein are about Petitioner, OVSD lacks information or belief to answer the allegations
8 about Petitioner, and on that basis, denies these allegations. Except as expressly admitted, OVSD
9 denies each and every allegation contained therein.

10 56. Answering line 29 on page 11 of the Petition, OVSD admits that the General
11 Manager's ruling on the Notice of Violation is set forth in a letter dated November 29, 2021, which
12 was delivered to Petitioner via email. To the extent that the allegations contained therein are about
13 Petitioner, OVSD lacks information or belief to answer the allegations about Petitioner, and on that
14 basis, denies these allegations. Except as expressly admitted, OVSD denies each and every
15 allegation contained therein.

16 57. Answering line 31 on page 11 of the Petition, OVSD admits that it received
17 Petitioner's Request for Reconsideration of Ruling on Notice of Violation on December 8, 2021,
18 appealing the General Manager's ruling to the Board of Directors. Except as expressly admitted,
19 OVSD denies each and every allegation contained therein.

20 58. Answering lines 2-5 on page 12 of the Petition, OVSD admits that the OVSD Board
21 of Directors held an administrative appeal hearing on March 28, 2022, regarding Petitioner's
22 December 8, 2021, appeal of the OVSD General Manager's November 22, 2021, decision to uphold
23 the Notice of Violation issued to Petitioner for failure to pay sanitary sewer connection and capacity
24 fees for a standalone or free-standing Accessory Dwelling Unit that Petitioner constructed on the
25 subject property, and that Petitioner and his legal representative, Nicolas D'Amico, were in
26 attendance. Except as expressly admitted, OVSD denies each and every allegation contained
27 therein.

28 59. Answering lines 7-8 on page 12 of the Petition, OVSD admits that on March 30,

1 2022, it mailed the Notice of Determination of the OVSD Board of Directors following the March
2 28, 2022, public hearing before the OVSD Board of Directors on Petitioner's appeal to the Board of
3 Directors of OVSD. To the extent that the allegations contained therein are about Petitioner, OVSD
4 lacks information or belief to answer the allegations about Petitioner, and on that basis, denies these
5 allegations. Except as expressly admitted, OVSD denies each and every allegation contained
6 therein.

7 60. Answering lines 13-16 on page 12 of the Petition, OVSD admits that it is obligated to
8 comply with California law. To the extent that the allegations contained therein are about Petitioner,
9 OVSD lacks information or belief to answer the allegations about Petitioner, and on that basis,
10 denies these allegations. To the extent the allegations contained therein constitute legal conclusions
11 and questions of law, no response is required. To the extent that the Court requires a response,
12 OVSD denies these allegations. Except as expressly admitted, OVSD denies each and every
13 allegation contained therein.

14 **AFFIRMATIVE DEFENSES**

15 OVSD asserts the affirmative defenses below. By alleging these defenses, OVSD does not
16 admit that it has the burden of proof and/or burden of persuasion as to any of these defenses.

17 **FIRST AFFIRMATIVE DEFENSE**

18 **(Failure to State a Claim)**

19 The Petition fails to allege facts sufficient to support any claim for relief.

20 **SECOND AFFIRMATIVE DEFENSE**

21 **(Statute of Limitations)**

22 The claims asserted in the Petition are barred by the 90-day time limit for actions challenging
23 the decision of a local agency set forth under Code of Civil Procedure section 1094.6.

24 **THIRD AFFIRMATIVE DEFENSE**

25 **(Compliance with Statutes)**

26 The Petition and each purported cause of action therein is barred because the conduct of
27 Respondent OVSD at all times complied with all applicable statutes, regulations, and laws.

28 **FOURTH AFFIRMATIVE DEFENSE**

1 **(Attorneys' Fees)**

2 The Petition fails to allege facts sufficient to establish a claim for attorneys' fees.

3 **FIFTH AFFIRMATIVE DEFENSE**

4 **(Standing)**

5 Petitioner lacks standing to assert the Petition, each purported cause of action therein, and the
6 requested remedies.

7 **SIXTH AFFIRMATIVE DEFENSE**

8 **(Unjust Enrichment)**

9 Petitioner's claims are barred, in whole or in part, because any recovery would result in
10 unjust enrichment to Petitioner.

11 **SEVENTH AFFIRMATIVE DEFENSE**

12 **(Injunctive Relief)**

13 The Petition, and each purported cause of action alleged therein, fails to allege facts
14 sufficient to entitle Petitioner to injunctive relief.

15 **EIGHTH AFFIRMATIVE DEFENSE**

16 **(Laches)**

17 Petitioner is barred by the doctrine of laches from pursuing the Petition and each purported
18 cause of action therein by reason of Petitioner's inexcusable and unreasonable delay in filing the
19 Petition.

20 **NINTH AFFIRMATIVE DEFENSE**

21 **(Trustee May Not Appear In Pro Per)**

22 No attorney licensed or authorized to appear in the courts in the State of California has
23 appeared as counsel of record for Petitioner. Petitioner is co-trustee of the Vane Family Trust. A
24 trustee may not appear *in propria persona* to represent the trust or the trust beneficiaries and,
25 accordingly, Petitioner is barred from proceeding in this action unless and until a licensed attorney
26 appears to represent it.

27 **RESERVATION OF RIGHTS**

28 OVSD hereby gives notice that it intends to rely upon such other and further affirmative

1 defenses as may become available during discovery in this action and reserves the right to amend its
2 Answer to assert such defenses.

3 **PRAYER FOR RELIEF**

4 WHEREFORE, Respondent Ojai Valley Sanitary District prays for relief as follows:

- 5 1. That Petitioner take nothing by reason of the Petition for Writ of Administrative
6 Mandate;
7 2. That the Petition for Writ of Administrative Mandate be dismissed with prejudice;
8 3. For costs of suit incurred; and
9 4. For such other and further relief as the Court may deem just and proper.

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11 Dated: August 25, 2022

Respectfully submitted,

12 ARNOLD LAROCHELLE MATHEWS
13 VANCONAS & ZIRBEL LLP

14
15 By: 

16 Robert N. Kwong
17 Mischa N. Barteau
18 Attorneys for Respondent
19 Ojai Valley Sanitary District
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PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF VENTURA

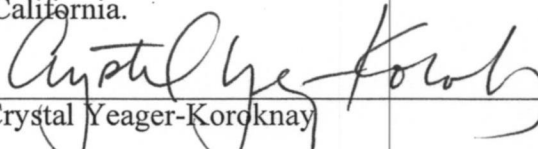
I am employed in the County of Ventura, State of California. I am over the age of 18 and am not a party to the within action; my business address is 300 Esplanade Drive, Suite 2100, Oxnard, CA.

On August 25, 2022, I served the foregoing document described as **Answer to Verified Petition for Writ of Administrative Mandate** on interested parties in this action by placing the original a true copy thereof enclosed in sealed envelopes addressed as follows:

Richard H. Vane, Trustee of the Vane Family Trust
30 La Cumbra Street
Oak View, CA 93022

- BY MAIL: As follows: I am “readily familiar” with the firm’s practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. postal service on that same day with postage thereon fully prepaid at Oxnard, California, in the ordinary course of business. I am aware that on motion of the party served, 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.
- BY OVERNIGHT COURIER: I enclosed the documents in an envelope or package provided by an overnight delivery carrier and addressed to the persons at the addresses listed above. I placed the envelope or package for collection and overnight delivery at an office or a regularly utilized drop box of the overnight delivery carrier.
- BY FACSIMILE: I caused to be transmitted the document described herein via the fax number listed above. Upon completion of said facsimile transmission, the transmitting machine issued a transmission report showing the transmission was complete and without error.
- BY PERSONAL SERVICE: I delivered said document by hand to the addressee listed above.
- BY E-MAIL: I caused the document to be sent to the person at the e-mail address listed above. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.
- (STATE)** I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.
- (FEDERAL)** I declare under the laws of the United States of America that I am employed in the office of a member of the Bar of this court at whose direction the service was made and that the foregoing is true and correct.

Executed on August 25, 2022, at Oxnard, California.


Crystal Yeager-Koroknay