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KIM Investments, LLC

ELECTRONICALLY FILED
Superior Court of California,
County of San Diego
02/18/2020 at 10:25:00 AM
Clerk of the Superior Court
By Carolina Miranda, Deputy Clerk

7 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
8 **COUNTY OF SAN DIEGO- CENTRAL DIVISION**

9
10 CITRUS ST PARTNERS, LLC;

11 Petitioner,

12 vs.

13 CITY OF LEMON GROVE; CITY
14 COUNCIL OF THE CITY OF LEMON
GROVE; AND DOES 1-10,

15 Respondents.

16

DOES 11-20

17 Real Parties in Interest and
18 Defendants.

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KIM INVESTMENTS, LLC,

20 Real Party In Interest and
21 Intervenor.
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CASE NO. 37-2019-00064690-CU-MC-CTL

**PROPOSED INTERVENOR KIM
INVESTMENTS, LLC'S EX PARTE
APPLICATION TO INTERVENE OR IN
THE ALTERNATIVE, FOR AN ORDER
SHORTENING TIME ON MOTION IFOR
LEAVE TO INTERVENE**

[Imaged File]

Judge: Hon. Richard S. Whitney
Dept: C-68
Date: February 19, 2020
Time: 8:45 a.m.

Petition Filed: December 5, 2019

AUSTIN LEGAL GROUP, APC
3990 Old Town Ave, Ste A-101
San Diego, CA 92110

1 TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:
2 PLEASE TAKE NOTICE that on Wednesday February 19, 2020 at 8:45 a.m. in Department C-68
3 of this Court, located at 330 West Broadway, San Diego, California, before the honorable Richard
4 S. Whitney, proposed intervenor KIM Investments, LLC (“KIM”) will and hereby does move ex
5 parte pursuant to Code of Civil Procedure section 387 to intervene in this action.

6 KIM is entitled to intervene as a right under Code of Civil Procedure section 387(d)(1)(b)
7 as KIM has an interest in the land use entitlement that petitioner Citrus St Partners, LLC has
8 already enjoined through its temporary restraining order and further attempts to enjoin through its
9 motion for a preliminary injunction against the City; KIM has been directly and prejudicially
10 affected by Petitioner’s temporary restraining and will continue to be directly and prejudicially
11 affected by the result of its request for preliminary injunction.

12 Alternatively, KIM asks the Court to grant permissive intervention under Code of Civil
13 Procedure section 387(d)(2).

14 KIM’s proposed Answer in Intervention is attached as Exhibit “A” to the Declaration of
15 Gina Austin and incorporated by reference.

16 In the alternative KIM hereby moves for an order shortening time on its May 1, 2020
17 motion to intervene pursuant to Code of Civil Procedure sections 128 and 1005 on the grounds
18 that the earliest available hearing date on regular notice is May 1, 2020 and KIM has filed and
19 served its motion to intervene with the regularly noticed hearing date of May 1, 2020. Waiting
20 until May 1, 2020 for the hearing on its motion to intervene will cause irreparable harm to KIM as
21 KIM will be left with no ability to defend its currently enjoined application to operate a medical
22 marijuana dispensary in the City of Lemon Grove.

23 As set forth in the declaration of Richard Andrews, counsel for Petitioner, Suzanne Varco
24 (svarco@envirolawyer.com) and Grant Olsson (golsson@envirolawyer.com), Varco &
25 Rosenbaum Environmental Law Group, LLP, 225 Broadway, Suite 1900, San Diego, California,
26 92101, and counsel for the City of Lemon Grove, Kristen Steinke (kss@lfap.com) and Alena
27 Shamos (aso@lfap.com), Lounsbury Ferguson Altona & Peak, 960 Canterbury Place, Suite 300,
28 Escondido, California, 92025, were given notice of the date and time of this ex parte application

1 and the nature of the relief sought via e-mail on Friday January 14, 2020 as set forth in the
2 declaration of Richard Andrews.

3 Petitioner will oppose this ex parte application. KIM has not yet been informed by the
4 City that it will oppose this ex parte application but KIM believes the City will appear at the ex
5 parte hearing.

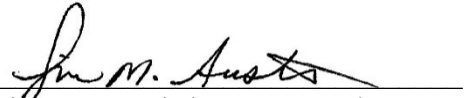
6 KIM's ex parte application is based on this Ex Parte Application To Intervene Or In The
7 Alternative For Order Shortening Time, the Verified [Proposed] Answer in Intervention, the
8 Memorandum of Points and Authorities In Support of this ex parte application, the Declaration
9 of Gina Austin In Support of this ex parte application, the Declaration of Jilette Yousif in
10 support of this ex parte application, the Request for Judicial Notice, the pleadings and records
11 on file herein, and such other oral and documentary evidence as may be presented at the hearing

12 Dated: February 18, 2020

Respectfully Submitted,

AUSTIN LEGAL GROUP, APC

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14
15 By:



Gina M. Austin/Tamara Leetham,
Attorneys for KIM Investments, LLC