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RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

9 Attorneys for Plaintiffs
10 Oscar Braun, Andrea Braun
11 and The Oscar A. Braun Trust
12 Dated 1996

13 UNITED STATES DISTRICT COURT
14 NORTHERN DISTRICT OF CALIFORNIA
15 SAN FRANCISCO DIVISION

16 **C 03 3415**

17 OSCAR BRAUN , ANDREA BRAUN
18 and THE OSCAR A. BRAUN TRUST
19 DATED 1996,

Case No.:

COMPLAINT FOR VIOLATION OF
CIVIL RIGHTS

Plaintiffs,

42 U.S.C.A. § 1983

v.

Demand for Jury Trial

COUNTY OF SAN MATEO,

Defendant.

Plaintiffs Oscar Braun and Andrea Braun Allege as follows:

Jurisdiction and Venue:

1. This action arises under 42 USC § 1983. The jurisdiction of the court is pursuant to 28 USC §§ 1331 and 1343(a)(1).

2. Venue is proper in the Northern District of California because a substantial amount of the events, acts or omissions giving rise to the claim occurred in this District.

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Parties and Introduction:

3. Plaintiffs Oscar Braun and Andrea Braun (collectively “the Brauns”) are citizens of the State of California, residing at 1589 Higgins Canyon Road in the unincorporated Half Moon Bay area of San Mateo County, California (hereinafter the “Property”). At all times relevant to this action, the Brauns have been the beneficial owners of the Property.

4. At all times mentioned in this complaint, Defendant County of San Mateo (the “County”) administers and controls the process for issuance of planning, development, horse stable, affordable housing, environmental health and building permits in the unincorporated areas of the County of San Mateo. Plaintiffs made applications for legalization of a mobile home in which a developmentally disabled farm laborer (Mr. Neves) resided as affordable housing, as well as a stable, tractor shed, agricultural barn and shed, and to replace a code-mandated, but leaking, water tank used for fire suppression. Plaintiffs Braun have a vested interest in maintenance and repair of the water tank by having received a building permit for its original installation and because it is essential for the Plaintiffs’ and the public’s safety. After years of delay, their applications were finally *unanimously* approved and granted by the County’s Planning Commission. However, The County’s Board of Supervisors then demanded the Brauns pay illegal and unjustly disproportionate fees and penalties, and ultimately reversed the unanimous decision of the Planning Commission and denied Plaintiffs’ applications. Plaintiffs are informed and believe and thereon allege that such action was taken to punish Andrea and Oscar Braun for their political beliefs and for Oscar Braun’s enthusiastic exercise of his Constitutional rights under the First Amendment, including but not limited to his highly public criticism of the Board of Supervisors and certain of its projects.

The Brauns’ Exercise of Constitutionally Protected Political Speech

5. Plaintiff Oscar Braun is the president of the Half Moon Bay Coastsides Foundation, aka Save Our Bay (hereinafter “Save Our Bay”), and the Brauns’ residence serves as the

1 headquarters for Save Our Bay. Save Our Bay is a community-based, 501(c)(3) nonprofit,
2 environmental-watchdog, charitable corporation, which was established at the personal request
3 of the late United States Secretary of Commerce Ron Brown and was later incorporated on
4 December 23, 1999. Save Our Bay is a recognized member and active participant in the NOAA
5 Water Quality Protection Program aka WQPP, the RWQCB Stormwater Pollution Prevention
6 Program aka STOPPP, the California Coordinated Resource Management Planning Council aka
7 Coastside CRMP Council, and the Coastside Fire Safe Council (representing San Mateo County
8 Coastal Zone which comprises approximately 73% of County's land area). Save Our Bay
9 also founded the Half Moon Bay Chapter of the Surfrider Foundation.

10 6. From its location in the heart of the San Francisco Peninsula watershed, the
11 Save Our Bay facility provides early detection fire alert and access to the upper levels of the
12 watershed from the West. Save Our Bay has established the California Watershed Posse, whose
13 members work with landowners and other governmental agencies to develop and implement
14 integrated landscape scale Coordinated Resource Management Plans to assure NEPA/CEQA
15 compliance, ecosystem sustainability, and effective Fire Safe landscape and watershed plan-
16 ning.

17 7. Through his work with Save Our Bay, Oscar Braun has actively sought to estab-
18 lish a comprehensive watershed management program in San Mateo County to avert catastro-
19 phic environmental damage to the Peninsula watershed from natural and human-made causes,
20 including environmental terrorism, firestorm and drinking water contamination. In so doing,
21 among other controversial projects, and in criticizing the status quo and drawing attention to the
22 vulnerability of existing neglected and unmanaged watershed conditions in the County, Plain-
23 tiffs have taken positions that are politically unpopular with the County and others.

24 8. Plaintiff Oscar Braun has long been outspoken on issues of public interest. In
25 addition to being the president of Save Our Bay, Oscar Braun is also the online publisher of the
26 California Watershed Posse Town Hall forum, and the co-founder of the San Mateo County
27 rural lands farming community organization, the Coastal Family Alliance. He is also spear-

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1 heading a drive to incorporate approximately 100,000 acres of unincorporated rural coastal
2 lands in the County, and publishes a website in support of the incorporation project. Mr. Braun
3 has utilized these forums as a frequent critic of the Board of Supervisors and various County
4 practices, policies and programs, including the Devil's Slide project and the failure of the
5 County to provide adequate services to coastal residents. He is a frequent speaker before the
6 County Board of Supervisors and other local, state and federal agencies. He uses the website as
7 a clearinghouse for news, reports and other information on public issues concerning coastal San
8 Mateo County. Mr. Braun regularly sends e-mails to a list of recipients that includes local
9 residents, government officials at the local, county, state, and federal level, and members of the
10 press.

11 9. Oscar Braun is disliked by many in the so-called "environmental community,"
12 presumably because of his position that the agenda of some of these groups is "anti-community"
13 and results in negative impacts for local residents. Mr. Braun has been outspoken in his belief
14 that the "environmental community" has exerted its influence with the County to limit afford-
15 able and available housing in the coastside by a technique of restricting use and development of
16 housing, agriculture, police protection, fire protection, roads, sewer systems, water, watershed
17 and schools. Those politically opposed to Plaintiffs have sought the assistance of the County
18 and have publicly brandished their political influence in the County (including a reference to
19 one of their leaders as a "sixth member" of the Board of Supervisors on their organization's
20 official web page, as alleged below). The Brauns are informed and believe and thereon allege
21 that the County has responded to such political pressure.

22 10. Plaintiff Oscar Braun has been a "whistle-blower" regarding environmental
23 damage in the coastside and rural lands of the County and has assisted to enforce environmental
24 laws in the County. For example, Mr. Braun and his attorney, the late Alan Beavan, com-
25 menced litigation in 1995 that forced the Sewer Authority Midcoast to update and improve its
26 sewer system, stopping hundreds of egregious environmental violations and the repeated
27 exposure of the public beaches to raw sewage. In 1998, Mr. Braun photo-documented the

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1 County's long history of dumping tons of road-slide dirt and debris into the Arroyo Leon
2 Creek's Environmentally Sensitive Habitat Area ("ESHA"), including the creek bed stream for
3 steelhead trout. In response to Mr. Braun's evidence, the State of California forced the County
4 to cease its unlawful practices. Mr. Braun has also fought against violations of the Federal
5 Clean Water Act by the County and local landowners, including some affiliated with main-
6 stream "environmental" groups.

7 11. Plaintiff Oscar Braun has also spoken out publicly on the subject of County elec-
8 tions. San Mateo County is the only county out of 48 counties in the State of California that
9 does not have district elections for its Board of Supervisors. Accordingly, the San Mateo
10 County coastal population has traditionally been underrepresented, because supervisors are
11 customarily elected from the "Bay" side of the County with greater population centers. Many
12 on the San Mateo coast believe that the coast receives less than a fair share of County resources.
13 For at least the last four years, Mr. Braun has spoke out publicly on behalf of a great number of
14 coastal residents who feel ignored by the County government. Mr. Braun's notoriety has even
15 made him the subject of insults and derogatory comments by at least one County official in
16 candid comments, despite the County's Mission Statement that highlights the County's pro-
17 fessed commitment to "Treating people with respect and dignity." (San Mateo County Shared
18 Vision 2010, page 2.)

19
20 Permit Application Process and Related Events:

21 12. On March 4, 1998, the County conducted an investigation of the Property in re-
22 sponse to a request by a neighbor, Cynthia Giovannoni. On March 12, 1998, the County cited
23 Plaintiff Oscar Braun for development in the Resource Management-Coastal Zone without a
24 development review permit. The County also stated that the Brauns needed a farm labor hous-
25 ing permit for Mr. Neves' residence and a stable permit for the stable. Oscar Braun had been
26 previously led to believe that the developments and activities were exempt from permits. The
27 County issued a final notice of violation on or about July 20, 1998. Mr. Braun arranged to meet
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1 with County planner Laura Thomson at her convenience to prepare and file all necessary
2 applications.

3 13. On September 15, 1998, while Mr. Braun was meeting with Ms. Thompson in
4 the County's offices at the time and date she requested, a Sheriff's officer interrupted Mr. Braun
5 as he was attempting to complete the application and pay whatever fees were required, directed
6 planner Thompson to leave the room, and then served Mr. Braun with a citation for nuisance for
7 maintaining the very structures Mr. Braun was in the process of legalizing.

8 14. On December 1, 1998, the trial of the nuisance citation for maintaining unpermit-
9 ted structures was held before Municipal Court Referee Kathleen Henry as Case No. 941588.
10 The Brauns established that they had attempted to and were prepared to make all appropriate
11 applications for permits to legalize the structures and to pay all appropriate fees, and that they
12 were well on their way to finishing the process when the County interrupted, ejected the plan-
13 ner, and served the citation. During the court hearing, Ms. Thompson, on behalf of the County
14 and as its agent, requested a court recess to calculate the fees due from the Brauns, which
15 request the Court granted. After the recess, Ms. Thompson informed the Court that the total
16 fees required for Plaintiffs to submit with their applications for legalization of the stable, tractor
17 shed, agricultural barn, and farm labor housing unit was \$3,720. At the direction of the court,
18 the parties met the following day to complete the applications and pay the fees. The
19 Brauns paid the full fee calculated during trial by Ms. Thompson – \$3,720 – and received a
20 receipt therefore. Subsequently, as alleged below, the County failed to credit the Brauns with
21 this payment and threatened the Brauns with denial of their permit applications if they did not
22 pay these same monies again.

23 15. On January 20, 1999, Referee Henry heard argument regarding the completeness
24 of the legalization application. Following testimony by planner Thompson, Referee Henry
25 ruled that the application lacked just two items to be complete: A topographical site plan and
26 elevation drawings of structures to be legalized. The Court then entered an order requiring that
27 those two items – nothing else – needed to be submitted to complete the permit applications.

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1 Thereafter, Plaintiffs submitted the items identified in the Court order, and the application was
2 complete.

3 16. On July 26, 1999, the County notified Plaintiffs that the topographical map, in-
4 cluding driveway profile survey, met the County's requirements. However, the County then
5 demanded that the elevation drawings needed to be revised. The County then added several
6 new requirements not included in the court's January 20, 1999, order or otherwise made or
7 disclosed by the County in a timely or lawful fashion.

8 17. On April 28, 2000, without prior notice to Plaintiffs, the County recorded a No-
9 tice of Continuing Nuisance with respect to the Property. The County recorded such notice
10 even though it had certified to the Municipal Court that Plaintiffs' applications to legalize the
11 unpermitted structures were complete.

12 18. Plaintiff Brauns lawfully sought to use their property and lease a portion of it for
13 the purpose of cell phone communications antennae. During 1998 and 1999, Nextel investi-
14 gated with Plaintiffs Braun and with the County installing several cell-phone antennae on the
15 Property. Thereafter, beginning about January 2000, Sprint PCS also undertook an investiga-
16 tion with Plaintiffs Braun and with the County regarding installing several cell-phone antennae
17 on the Property. Sprint PCS proposed 15-foot antennae designed to look like naturally occur-
18 ring pine trees, and the Brauns signed and recorded leases for multiple telephone tree antennas
19 with both companies. The sites would have provided cellular service to the rural coastal zone
20 area from Half Moon Bay to Pacifica, and over the life of the lease would have produced
21 millions of dollars of rental income to the Brauns. A Sprint PCS representative informed Mr.
22 Braun that a County staff member told the Sprint PCS representative that the staff member's
23 superior at the County Planning Department had instructed the staff member to block or frus-
24 trate any applications for the Property because of Mr. Braun's outspokenness and willingness to
25 sue the County. The Sprint Representative was also told to look elsewhere for their antennae
26 sites, and that the County "knows how to deal with Oscar." On July 6, 2000, Mr. Braun com-
27 plained by letter to the County, but the County never changed positions. The County's inten-

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1 tional and retaliatory obstruction tactics ultimately caused Sprint PCS and Nextel to back out of
2 the leases, resulting in significant financial damages to the Brauns into the millions of dollars.
3 The Brauns are informed and believe and thereon allege that in continuing retaliation against
4 these Plaintiffs and with a desire to cause the Brauns harm, the County maintained the nuisance
5 claim "to deal with Oscar" and thereby preclude the Brauns from earning rental income from
6 the lucrative practice of providing cell phone antennae at this unique location.

7 19. The Planning Department finally gave notice on October 17, 2000, that the
8 permit applications have been determined to be complete. At that point, the permitting process
9 had taken over two years. The Brauns are informed and believe and thereon allege that the
10 County intended to deal harshly and with discriminate against the Brauns, because Oscar Braun
11 has been a critic of the County and has been willing to stand up to the County and expend all
12 necessary resources to do so whereas others often do not have the resources to do so.

13
14 Planning Commission Decision Approving All Permits:

15 20. On November 14, 2001, Planning Commission staff informed the Planning
16 Commission that the Property with the structures to be legalized complied with all applicable
17 General Plan policies, and was in conformance with the Local Coastal Program. Planning staff
18 recommended approval of the permit on payment of \$3,720 in initial fees (overlooking the fact
19 that the Brauns had already paid the initial fees), and a "penalty" of \$3,720 that had never been
20 assessed by the County in the preceding three years since the application was first filed. On
21 November 14, 2001, three and a half years after the process began the Planning Commission
22 unanimously approved the Coastal Development Permit, Resource Management-Coastal Zone
23 Permit and Stable Permit with the conditions noted by the staff. In so doing, the Planning
24 Commission legalized the stable, tractor shed, and agricultural barn, approved replacement of
25 one 8,000-gallon water tank with two 5,000-gallon water tanks, and assigned a floating density
26 credit to Mr. Neves' residence thus designating it as an affordable housing unit. At the same
27 time, the Planning Commission rejected all objections to approval made by three objectors.

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Hearings Before Board of Supervisors:

21. On December 3 and 4, 2001, two of the objectors to approval of the permits filed appeals of the Planning Commission decision to the Board of Supervisors. The appellants were Ms. Giovannoni, the neighbor whose complaint started the County investigation into the Property, and Lennie Roberts, a local “environmental” activist who has claimed on her organization’s web site to be a “sixth member” of the Board of Supervisors. This claim was removed from the web site after it was brought to the public’s attention at a Board of Supervisors meeting.

22. On January 15, 2002, the San Mateo County Board of Supervisors made interim rulings on the appeals from the Planning Commission decision that approved Plaintiffs’ permits. First, the Board of Supervisors determined that all building permit fees and “*penalties*” (emphasis added) for building without building permits *were due on December 2, 1998*, when the initial permit applications were filed. The Board of Supervisors directed the County planning staff to calculate and collect all building, development, stable and planning fees, *including all “penalties,”* that, allegedly, should have been charged and collected by the County on December 2, 1998. Second, the Board of Supervisors directed its staff to inspect the Property again for any building, planning or development permit violations that were not included in the current legalization application.

23. On February 11, 2002, the County informed Plaintiffs that the additional fees assessed by the Board of Supervisors on January 15, 2002, totaled \$27,238.50, which the County described as “payment of all fees due for planning, building and environmental health permits, including all applicable investigation fees *and penalties* due for construction without permits.” (Emphasis added.)

24. On or about April 2, 2002, the County conducted a “SWAT” type raid on the Property, looking for any additional violations to include on the application. The incursion consisted of several armed County officers and at least three patrol vehicles from the County’s

1 'Rural Crimes Unit,' in addition to at least three other County vehicles. Plaintiffs are aware of
2 no other such display of force, intimidation and overkill for inspection of similarly situated
3 applicants for a residential permit. Plaintiffs are informed and believe and thereon allege that
4 this display of force was designed to intimidate Mr. Braun from speaking out publicly on
5 political issues as he had done in the past.

6 25. On April 10, 2002, the County's planning staff amended its report of February
7 11, 2002, and forwarded the amended report to the Board of Supervisors. The amended staff
8 report stated that staff had determined that the Brauns had roofed a patio area without permits
9 and that the application for legalization should be amended to include this, along with a "storage
10 shed adjacent to stable" that is actually a movable shade for horses, and a "storage container"
11 that was illegally placed on the Property by the spouse of the Brauns' neighbor, appellant
12 Cynthia Giovannoni. This "storage container," which the Giovannis later admitted in testimony
13 before the Board of Supervisors to placing on the Brauns' Property, is actually a huge, landfill-
14 solid-waste-disposal trailer.

15 26. The County now claimed Plaintiffs owed \$45,073.24 of which \$5,718.50 had
16 been paid. Of the total, the County described \$36,543.08 as "investigation fees," i.e., penalty
17 assessments.

18 27. In communications with the County, Plaintiffs amended their applications to in-
19 clude the patio enclosure. Plaintiffs disputed the need for a building permit for the movable
20 horse shade and denied seeking legalization of the neighbors' landfill-solid-waste-disposal
21 trailer that was trespassing on the Property. Despite this trespass, the County has never ordered
22 the neighbor to remove the trailer, and it remains on the Property.

23 28. On April 16, 2002, and again on June 18, 2002, the Board of Supervisors heard
24 further evidence. The Board of Supervisors continued the matter for further review and evalua-
25 tion. At all times before the Board of Supervisors, the employees of the County, including
26 Planning Administrator Terry Burnes, asserted that the Brauns' property development was
27 consistent with the type of land planning and use that would routinely be approved if applied for

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1 and that there were no valid planning issues the County needed to be concerned with other than
2 environmental health issues with respect to water and septic systems.

3 29. On July 17, 2002, County Counsel Thomas F. Casey, III, submitted a further re-
4 port regarding the status of the dispute with Plaintiffs. County Counsel reported that Plaintiffs'
5 application *complied with all County regulations* as to the enclosure of the patio, the stable, the
6 tractor shed, the agricultural barn, the water tanks and the storage shed adjacent to the stable.
7 County Counsel reported that as to these items (not the affordable housing unit), the *only*
8 dispute was Plaintiff's refusal to pay sums assessed for investigation fees, which Plaintiffs
9 assert are unlawful charges. In an apparent concession that the County had assessed unlawful
10 fees, County Counsel reduced the County's demand for so-called "investigation fees" from
11 \$36,543.08 to \$20,132.80 between April 10, 2002, and July 17, 2002.

12 30. Throughout the appeal process, Plaintiffs Braun were subjected to the County's
13 capricious demands that they pay all County fees – even fees that the County eventually admit-
14 ted were either unlawful or already paid – by particular dates and were subjected to the
15 County's position that the Brauns' failure to meet such demands in full would cause the County
16 to uphold the appeal. Plaintiffs objected to the arbitrary penalties and investigative fees charged
17 by the County, because the fees and charges violate provisions of the California Government
18 Code that require that such fees and charges be equivalent to the reasonable estimated cost of
19 processing permits and reviewing structures. Thus, Plaintiffs contend that these fees are unlaw-
20 ful under the California Constitution, California Statutory Law and County ordinance. These
21 repeated demands for payment of unlawful charges further demonstrate that the County's
22 actions toward Plaintiffs were unlawful, arbitrary and retaliatory.

23 31. The County ultimately alleged that Plaintiffs do not comply with County regula-
24 tions regarding only one structure to be legalized – the affordable housing unit, which has been
25 Mr. Neves' residence for approximately 10 years. The County wrongly asserts that the septic
26 tank for the unit is in violation of county ordinance, because it is too close to the unit, when in
27 fact the County has been far more flexible with other applicants in the past in dealing with

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1 similar septic tank issues. The County treated the Brauns differently. The County also asserts
2 that the water supply of the permitted well on the Property is insufficient to supply both the
3 house and Mr. Neves' residence, but ignored the fact that there is a second well on the Property
4 that is not subject to the water well ordinance due to its age, pursuant to County Ordinance.
5 Accordingly, all of the County's objections to the affordable housing unit are inaccurate in fact
6 and in law, with the result that Mr. Neves will lose his affordable housing unit. In order to
7 obtain approval, the Brauns offered to comply with all septic system conditions mandated by
8 the county, but even this concession failed to placate the County in its quest to punish the
9 Brauns.

10 32. On July 23, 2002, the County, acting by its Board of Supervisors, granted the ap-
11 peal of the unanimous Planning Commission decision that had approved Plaintiffs' permits and
12 instead denied all permit applications outright. Plaintiffs are informed and believe, and thereon
13 allege, that this action was retaliatory, wrongful, unlawful, a prejudicial abuse of the County's
14 authority, and was ultimately motivated by a desire to punish Mr. Braun for his outspoken
15 criticisms of the County's policies and practices.

16 33. The Brauns are aware of no other similarly situated applicant who has been sub-
17 jected to such a continuous campaign of obstruction, investigation, and ultimate rejection of a
18 unanimous Planning Department approval, as have the Brauns at the hands of the County.
19 While the Brauns have faced nothing but persecution from the County, other more politically
20 "correct" applicants have been subjected to little more than cursory review by the County. For
21 example, Plaintiffs are informed and believe that a neighboring parcel now owned by a politi-
22 cally connected land trust contains a waste landfill of approximately 200 acres. The landfill
23 threatens the health of the environmentally sensitive area and vital surface and ground water
24 resources, yet the County has refused to thoroughly investigate the site and order adequate
25 remediation. Plaintiffs are informed and believe that the County reclassified prohibited opera-
26 tions on three other local commercial / industrial sites at the urging of local 'environmental'
27 activist Lennie Roberts, despite alleged violations of environmental laws. Another example is
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1 the failure of the County to order the Brauns' neighbors (one of whom joined Ms. Roberts as
2 appellants in the permit application matter) to remove the trespassing solid waste trailer from
3 the Property. Further, the County forced the Brauns to conform their application to comply
4 with a horse stable permit, when the Brauns are informed and believe that there are less than
5 fifty residential horse stable permits in the rural lands of the County, most of which face no
6 County enforcement, despite a County horse population of approximately 5,000.

7 34. Many other coastal residents would like to speak out in opposition to County
8 practices and policies on issues ranging from infrastructure improvement and the proposed
9 Devil's Slide highway project to open space district annexation and land use issues, but are
10 afraid of retaliation by the County. The Brauns are not alone in concluding that there are two
11 paths available for San Mateo County coastal zone planning applicants. If an applicant aligns
12 with the "environmental community" and is not critical of the County, they will be treated one
13 way; if they are outspoken against County policies and practices, they will be treated another.

14 35. This campaign of unlawful and discriminatory conduct and violation of Plaintiff
15 Oscar Braun's constitutional rights culminated in the County's unwarranted July 23, 2003
16 denial of the Brauns' permit applications, despite the unanimous approval of the applications by
17 the Planning Commission and the County Counsel's determination that the application met all
18 County requirements, except for the unjust and arbitrary requirements imposed on the septic
19 tank and the illegal fees demanded by the County.

20 36. The County undertook these acts in retaliation for Oscar Braun's vigorous exer-
21 cise of his rights guaranteed by the First Amendment to the U.S Constitution, including freedom
22 of speech, freedom of the press, and freedom to petition grievances. The County's actions have
23 had a 'chilling' effect on Mr. Braun's exercise of his First Amendment rights, as he must now
24 think twice before publicly voicing his opinions. The County's impermissible motive was in
25 part politically grounded and was directed at the content of his speech and to attempt to deter
26 him from speaking out in the future. County officials have essentially admitted that the

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1 County's motivation was to punish Plaintiff Braun for his criticisms of the County's policies
2 and practices.

3 37. In conducting this campaign, the County's improper motivation to punish Mr.
4 Braun is shown by several factors, including but not limited to:

- 5 a. Undue delays and charges by the Planning Commission prior to the
6 unanimous approval of the applications;
- 7 b. Prosecution of a misdemeanor nuisance charge while Mr. Braun was
8 working to complete the applications;
- 9 c. Personal insults about Mr. Braun by County staff during the application
10 process, in violation of County commitments and principles regarding the
11 importance of "treating people with respect and dignity";
- 12 d. Obstruction (to the point of a constructive denial) of the application for
13 cellular phone antennae on the Property, along with a staff member's ad-
14 mission that Mr. Braun was being treated differently because of his po-
15 litical speech and lawsuits,
- 16 e. Orchestrating a "SWAT" type incursion onto the property in the guise of
17 an investigation;
- 18 f. The assessment of unlawful and unjust fees and 'penalties' for the permit
19 applications, including demands that the Brauns pay certain fees a second
20 time despite the fact that they had already been paid;
- 21 g. Treating the Brauns differently than similarly situated applicants by de-
22 denying the applications despite unanimous Planning Department approval
23 and despite planning staff recommendations, while politically connected
24 neighbors are not so treated, as set forth above and in a manner to be
25 proven at trial.

26 38. As a result of the County' actions and failures to act, Plaintiffs have sustained
27 damages for expenses and attorney fees to oppose the unlawful actions of the County, for lost
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1 revenue from Sprint PCS and Nextel and other damages in an amount to be proved at the time
2 of trial of this matter. Plaintiffs Andrea Braun and Oscar Braun are entitled to recover these
3 damages under 42 U.S.C.A. § 1988.

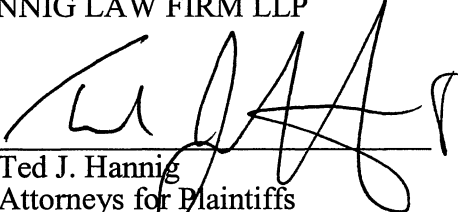
4 39. Plaintiffs are personally obligated to pay their attorney for attorney services to
5 prosecute this action. Plaintiff is entitled to recover attorney fees if they prevail in this lawsuit,
6 on the ground that the County's decision was the result of retaliatory, arbitrary, and capricious
7 action.

8
9 Therefore, Plaintiffs pray that:

- 10 1. Plaintiffs recover their damages according to proof, with interest thereon;
11 2. Plaintiffs recover their costs in this action, including attorney fees; and
12 3. Such other relief be granted that the Court considers proper.

13 Dated: July 22, 2003

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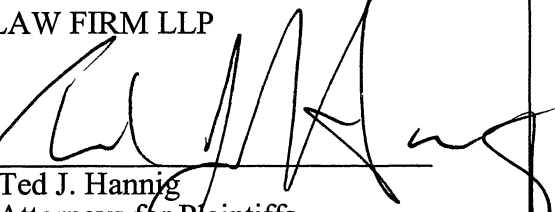
14
15 By: 
16 Ted J. Hannig
17 Attorneys for Plaintiffs
18 Oscar Braun and Andrea Braun

19
20 REQUEST FOR JURY TRIAL

21 Plaintiffs hereby request a jury trial pursuant to F.R.C.P. 38(b).

22
23 Dated: July 22, 2003

HANNIG LAW FIRM LLP

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25 By: 
26 Ted J. Hannig
27 Attorneys for Plaintiffs
28 Oscar Braun and Andrea Braun