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10 State of California

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MAR 02 2010
CLERK OF THE SUPERIOR COURT
By S. McMullen
Deputy

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF ALAMEDA

THE PEOPLE OF THE STATE OF
CALIFORNIA ex rel John A. Russo, City
Attorney for the City of Oakland,

Plaintiff,

v.

NORTH SIDE OAKLAND, a criminal street
gang sued as an unincorporated
association, and DOE ONE through DOE
SEVENTY, inclusive,

Defendants.

Case No. RG10498901

People's *Ex Parte* Application for Order
to Show Cause re Preliminary
Injunction and for Preliminary
Injunction Against The North Side
Oakland Criminal Street Gang

Date: March 3, 2010

Time: ~~9:00 a.m.~~ 1:00 p.m.

Department: 20

Action Filed: February 18, 2010

Trial Date: none assigned

TO THE HONORABLE COURT AND ALL DEFENDANTS:

PLEASE TAKE NOTICE that plaintiff, the People of the State of California, applies to this Court for an Order to Show Cause re Preliminary Injunction and for a Preliminary Injunction to abate a public nuisance through what is commonly known as a "gang injunction." The injunction sought will enjoin and restrain defendant North Side Oakland, a criminal street gang sued as an unincorporated association, and all members of defendant North Side Oakland, from engaging in or performing directly or indirectly, any of the following activities in a "Safety Zone," located in the City of Oakland described as follows:

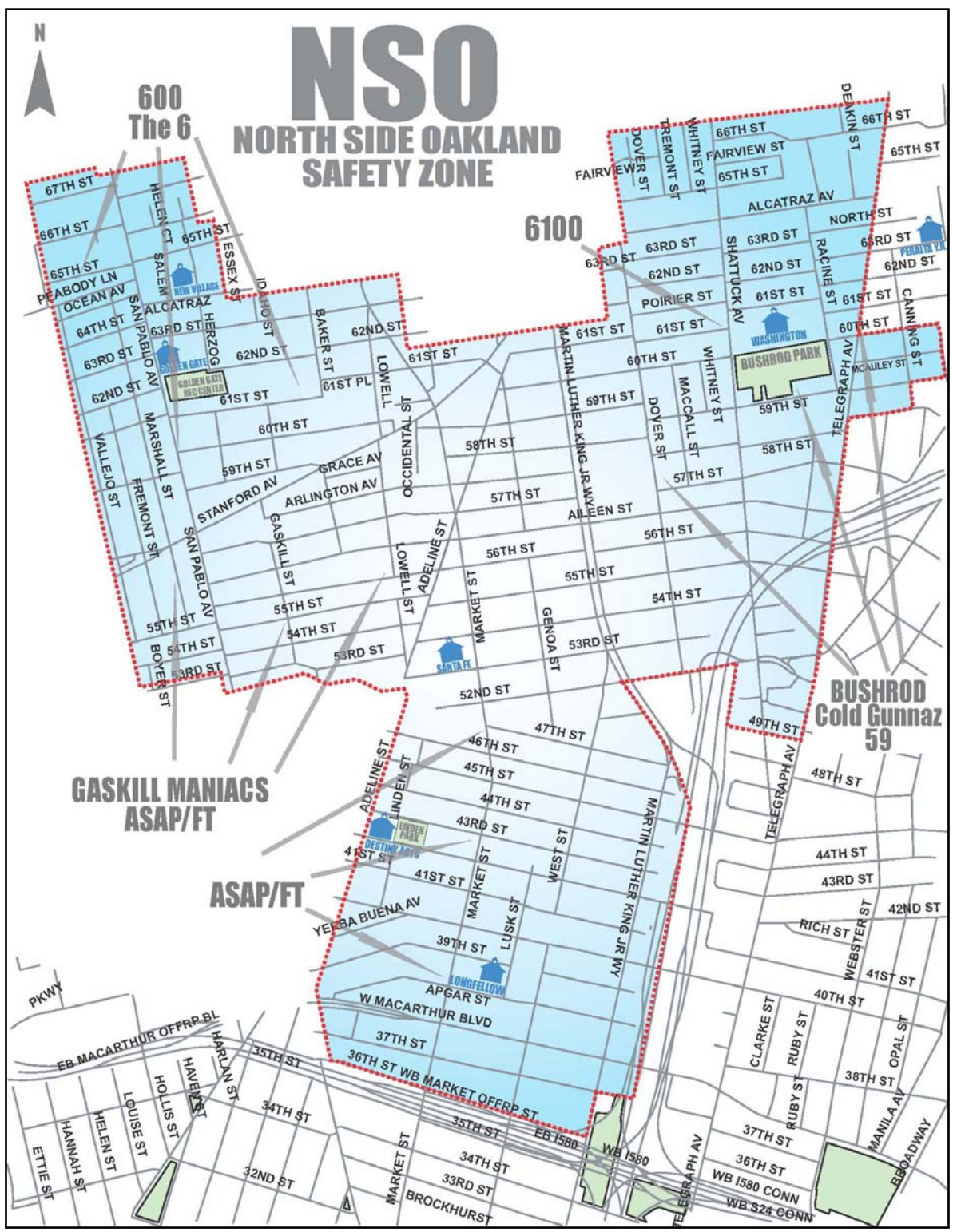
1 Starting at 37th Street and Martin Luther King, Jr. Way, then west on 37th
2 Street until Adeline Street; then north on Adeline Street until 53rd Street;
3 then west on 53rd Street until Boyer Street; then north along Boyer Street
4 and along the northerly line as it continues along Vallejo Street until 66th
5 Street; then east on 66th Street until Herzog Street; then south on Herzog
6 Street until Alcatraz Street; then east on Alcatraz Street until Market
7 Street; then southeast on Market Street until 61st Street; then east on 61st
8 Street until Dover Street; then north on Dover Street until Fairview Street;
9 then east on Fairview Street and along the easterly line as it continues
10 along 66th Street until Telegraph Avenue; then south on Telegraph Avenue
11 until 60th Street; then east on 60th Street until Canning Street; then south
12 on Canning Street until 58th Street; then west on 58th Street until
13 Telegraph Avenue; then south on Telegraph Avenue until 49th Street; then
14 west on 49th Street until Shattuck Avenue; then north on Shattuck Avenue
15 until 52nd Street; then west on 52nd Street until Martin Luther King, Jr. Way;
16 then south on Martin Luther King, Jr. Way until the starting point at 37th
17 Street, and extending 100 yards to the outside of each of those boundary
18 streets. A map delineating the proposed Safety Zone is attached on page
19 3 of this application.

20 a. **No Gang Association:** Driving, standing, sitting, walking, gathering or
21 appearing, anywhere in public view or any place accessible to the public, with any known
22 member of the North Side Oakland gang, is prohibited, except when: (1) when all
23 individuals are inside a school attending class or on school business, and (2) when all
24 individuals are inside a church, provided however that this prohibition against associating
25 shall apply to all claims of travel to or from any of those locations;

26 [continued on page 4]

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MAP OF PROPOSED SAFETY ZONE



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2 **b. No Witness Intimidation:** Confronting, intimidating, annoying,
3 harassing, threatening, challenging, provoking, assaulting or battering any person known
4 to be a witness to any activity of North Side Oakland, known to be a victim of any activity
5 of North Side Oakland, or known to have complained about any activity of North Side
6 Oakland;

7 **c. No Firearms, Imitation Firearms, or Dangerous Weapons:**
8 Anywhere in public view or anyplace accessible to the public, (1) possessing any firearm,
9 imitation firearm, ammunition, or illegal weapon as defined in Penal Code section 12020,
10 (2) knowingly remaining in the presence of anyone who is in possession of such firearm,
11 imitation firearm, ammunition or illegal weapon, or (3) knowingly remaining in the presence
12 of such firearm, imitation firearm, ammunition or illegal weapon;

13 **d. No Graffiti or Graffiti Tools:** Damaging, defacing, or marking any
14 public property or private property of another, or possessing any spray paint container,
15 felt tip marker, or other graffiti tool as defined in Penal Code section 594.2;

16 **e. Stay Away From Drugs:** Without a valid prescription, (1) selling,
17 possessing, or using any controlled substance or related paraphernalia, as defined in
18 Health and Safety Code Section 11364, including but not limited to rolling papers and
19 pipes used for illegal drug use, (2) knowingly remaining in the presence of anyone selling,
20 possessing, or using any controlled substance or such related paraphernalia, (3)
21 knowingly remaining in the presence of any controlled substance or such related
22 paraphernalia; (4) driving under the influence of any controlled substance, or (5) being
23 under the influence of drugs in public;

24 **f. No Trespassing:** Being present on or in any property not open to the
25 general public, except (1) with the prior written consent of the owner, owner's agent, or the
26 person in lawful possession of the property, or (2) in the presence of and with the

1 voluntary consent of the owner, owner's agent, or the person in lawful possession of the
2 property;

3 g. **Obey Time Restriction:** Being present in public view, in a public
4 place or in any place accessible to the public, between the hours of 10:00 p.m. on any day
5 and 5:00 a.m. of the following day, unless (1) going directly to, returning directly from, or
6 actively engaged in a legitimate business, trade, profession or occupation requiring the
7 enjoined person's presence, (2) going directly to, returning directly from, or actively
8 engaged in a lawful, non-gang related entertainment event, or (3) actively involved in a
9 legitimate emergency, such as a fire, natural disaster, automobile accident or situation that
10 requires immediate action to prevent serious bodily injury or loss of life. For purposes of
11 this provision, "entertainment event" means an amusement activity that occurs at a
12 commercial establishment and includes only events for which admission is charged, such
13 as movies, plays, public performances or sporting events;

14 h. **Obey All Laws:** Failing to obey all laws that (1) prohibit violence and
15 threatened violence, including murder, robbery by force or fear, assault and battery, (2)
16 prohibit interference with the property rights of others including robbery, theft, driving or
17 taking a vehicle without the owner's consent, and vandalism, or (3) prohibit the
18 commission of acts which create a nuisance including the illegal sale of controlled
19 substances and blocking the sidewalk or street;

20 i. **No Gang Recruitment:** Taking any action to recruit gang members
21 for Defendant North Side Oakland Criminal Street Gang and its cliques, or making any
22 threats or promises to shoot, stab, strike, hit, batter, injure, assault, disturb the peace, or
23 destroy the personal property of anyone, as an incentive to join Defendant gang; and

24 j. **No Loitering as Prohibited by Health and Safety Code section**
25 **11532:** Loitering in a public place in a manner and under circumstances manifesting the
26 purpose and with the intent to commit an offense specified in Chapter 6 of the Health and

1 Safety Code, commencing with Section 11400, in accordance with Health and Safety
2 Code Section 11532(b); and

3 Also, the People ask this Court to allow service of process and all documents in this
4 action including the complaint, summons, the Order to Show Cause, memorandum of
5 points and authorities, and supporting evidence (collectively, the "OSC/Service
6 Documents") on defendant North Side Oakland by the following methods:

7 **Personal Service on Designated Gang Members:** By personal service of a
8 copy of the above OSC/Service Documents on any three (3) or more of the following
9 "**Designated Gang members**" all of who are adults:

- 10 • Stephon Anthony
- 11 • Rafael Campbell
- 12 • Marcelus Collins
- 13 • Derris Dillard
- 14 • Brian Downing
- 15 • Darrel Easley
- 16 • Donta Easley
- 17 • Tyrone Elebeck
- 18 • Samuel Flowers
- 19 • Tyrone Jackson
- 20 • Chanzae Johnson
- 21 • Roy Johnson, Jr.
- 22 • Bao Viet Ngo
- 23 • Anthony Price
- 24 • Christopher Patrick aka
Terrence Stone, Christopher
Farley or Patrick Farley
- 25 • Anthony Smith
- 26 • Lucious Taylor
- Eric Tullis
- Yancie Young

17 **Additional Service By Mail:** By mailing a copy of the documents to defendant
18 North Side Oakland; however, because Plaintiff has been unable to find an address of
19 record or a last known address for defendant North Side Oakland, Plaintiff is authorized to
20 mail the documents to North Side Oakland by mailing the documents to North Side
21 Oakland in care of the address of record or last known address of five (5) or more of the
22 above-listed Designated Gang Members.

23 Service of process as outlined above is in accordance with Code of Civil Procedure
24 §416.40(c) and Corporations Code § 18220 (service on an unincorporated association
25 can be made, on court order, by personal service on one or more court-designated
26 members and mailing to the last known business address.)

1 Plaintiffs ex parte application for an order to show cause re: preliminary injunction
2 is made on the grounds that a public nuisance caused by the conduct and activities of
3 criminal street gangs exists in the Safety Zone, that the conduct and activities of this
4 defendant criminal street gang is a cause of that public nuisance, and that plaintiff may
5 properly seek to abate that public nuisance.

6 Plaintiffs *ex parte* application for an OSC re: preliminary injunction and for
7 preliminary injunction, is based on the California Supreme Court opinion, *People v. Acuna*
8 (1997) 14 Cal. 4th 1090, *cert. denied*, 521 U.S. 1121, which upheld the use of a gang
9 injunction by a City Attorney, on behalf of the People of the State of California, to abate a
10 public nuisance caused by a street gang's conduct and activities, and is further based on
11 Civil Code sections 3479, 3480, 3491 and 3494, Code of Civil Procedure sections
12 416.40(c), 526(a) and 731, *People v. Colonia Chiques* (2007) 156 Cal. App. 4th 31;
13 *People v. Englebrecht* (2001) 88 Cal. App. 4th 1236; *In re Englebrecht* (1998) 67 Cal. App.
14 4th 486, and such additional and other authorities as may be cited in plaintiff's
15 memorandum of points and authorities in support, and is based on the Expert
16 Declarations of Sergeant Bernard Ortiz and Officers John Cunnie, Nadia Clark, Patrick
17 Gerrans, the Declaration of Ofc. Jason Trode, the Declaration of Pelayo Llamas, the
18 declarations of dozens of police officers from the Oakland Police Department, Berkeley
19 Police Department, El Cerrito Police Department, Pleasant Hill Police Department, and
20 Stockton Police Department, and on such further and other evidence and argument as
21 might properly come before the Court.

22 Dated: February 1, 2010

23 *Mandy*

Respectfully submitted,

JOHN A. RUSSO, City Attorney
BARBARA J. PARKER, Chief Assistant City Attorney
ROCIO V. FIERRO, Supervising Deputy City Attorney
PELAYO A. LLAMAS, JR., Deputy City Attorney

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26 By: *[Signature]*

Attorneys for Plaintiff