

1 Christopher Locke (State Bar No. 101704)  
 2 FARELLA BRAUN & MARTEL LLP  
 235 Montgomery Street, 17th Floor  
 San Francisco, CA 94104  
 Telephone: (415) 954-4400  
 Facsimile: (415) 954-4480

5 Attorneys for Defendant  
 6 DESILVA GATES CONSTRUCTION, L.P.

8 UNITED STATES DISTRICT COURT  
 9 NORTHERN DISTRICT OF CALIFORNIA

11 MILLSMONT HOMEOWNERS  
 12 ASSOCIATION,

13 Plaintiff,

14 vs.

15 CITY OF OAKLAND and DESILVA  
 GATES CONSTRUCTION, L.P.,

16 Defendants.

Case No. C 06 03955 MMC

**STIPULATION AND [PROPOSED]  
 ORDER EXTENDING TIME TO  
 RESPOND TO COMPLAINT AND CASE  
 MANAGEMENT SCHEDULE**

Date: June 27, 2008  
 Time: 10:30 a.m.  
 Courtroom: 7, 19<sup>th</sup> Floor  
 Judge: Hon. Maxine M. Chesney

[Federal Rules of Civil Procedure 26(a), (f);  
 Civil Local Rules 7-12, 16-2(d)-(e)]

19 WHEREAS, defendants the City of Oakland (“City”) and DeSilva Gates Construction,  
 20 L.P. (“DeSilva”) were served with plaintiff’s Complaint and the accompanying Summons and  
 21 Order Setting Initial Case Management Conference on or about July 3 and 10, 2006, respectively;

22 WHEREAS, the City, DeSilva and representatives of plaintiff Millsmont Homeowners  
 23 Association (“MHA”) engaged in extended settlement discussions and an informal exchange of  
 24 information prior to and following service of the Complaint;

25 WHEREAS, the parties’ settlement discussions produced a Consent Decree documenting  
 26 a proposed settlement that provides an opportunity for restoration of Chimes Creek, an  
 27 accompanying Access Agreement to facilitate performance of tasks contemplated by the Consent

1 Decree, and other documents included as exhibits to the Consent Decree;

2 WHEREAS, with the assistance of Chief Magistrate Judge James Larson at a mediation  
3 on November 20, 2007, the parties resolved all remaining settlement issues and placed on the  
4 record their agreement on the terms of the Consent Decree and accompanying exhibits, subject to  
5 approval by the Oakland City Council and individual homeowners;

6 WHEREAS, issues have since emerged (1) last month with one of the MHA  
7 representatives claiming damage to her property from sewer repairs by the City and its contractor,  
8 and (2) at a meeting on January 24, 2008, at which some of the homeowners questioned the scope  
9 of the Access Agreement; counsel for the parties are diligently seeking to resolve these issues.

10 WHEREAS, because of these developments, the parties agree that a further extension of  
11 time, to and including May 9, 2008, for the City and DeSilva to respond to the Complaint, will  
12 avoid potentially unnecessary time and expense, promote judicial economy and serve the public  
13 interest while the parties seek to conclude the proposed settlement; and

14 WHEREAS, the parties further agree that a corresponding continuance of Case  
15 Management dates will facilitate these settlement efforts, avoid potentially unnecessary time and  
16 expense, promote judicial economy and serve the public interest.

17 THEREFORE, subject to the approval of the Court, the parties hereby stipulate and agree  
18 that there is good cause for a further extension of time, to and including May 9, 2008, for the City  
19 and DeSilva to respond to the Complaint, and for a corresponding continuance of Case  
20 Management dates (subject to being vacated upon the lodging of the proposed Consent Decree),  
21 as follows:

22 Last day for defendants to respond to Complaint	May 9, 2008
23 Last day to meet and confer re initial disclosures, early settlement, ADR 24 process selection and discovery plan	June 6, 2008
25 Last day to complete initial disclosures or state objection in Rule 26(f) 26 Report, file Case Management Statement, and file Rule 26(f) Report	June 20, 2008
27 Initial Case Management Conference	June 27, 2008 10:30 a.m.

28

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

SO STIPULATED:

DATED: January \_\_, 2008

FARELLA BRAUN & MARTEL LLP

By: /s/ Christopher Locke  
Christopher Locke

Attorneys for Defendant  
DESILVA GATES CONSTRUCTION, L.P.

DATED: January \_\_, 2008

OAKLAND CITY ATTORNEY

By: /s/ William Simmons  
William Simmons

Attorneys for Defendant  
CITY OF OAKLAND

DATED: January \_\_, 2008

NATURAL HERITAGE INSTITUTE

By: /s/ Julie Gantenbein  
Julie Gantenbein


Attorneys for Plaintiff  
MILLSMONT HOMEOWNERS ASSOCIATION

Upon stipulation of the parties and good cause appearing,

IT IS HEREBY ORDERED that the time for defendants the City of Oakland and DeSilva Gates Construction, L.P., to respond to plaintiff's Complaint is extended, and the Case Management dates are continued, subject to being vacated upon the lodging of the proposed Consent Decree, as follows:

Last day for defendants to respond to Complaint	May 9, 2008
Last day to meet and confer re initial disclosures, early settlement, ADR process selection and discovery plan	June 6, 2008
Last day to complete initial disclosures or state objection in Rule 26(f) Report, file Case Management Statement, and file Rule 26(f) Report	June 20, 2008
Initial Case Management Conference	June 27, 2008 10:30 a.m.

DATED: February 1, 2008

  
MAXINE M. CHESNEY  
United States District Judge