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11 CITY OF SEBASTOPOL, CITY COUNCIL OF
THE CITY OF SEBASTOPOL, and GLENN
12 SCHAINBLATT

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14 **UNITED STATES DISTRICT COURT**
15 **NORTHERN DISTRICT OF CALIFORNIA**

16 LONGS DRUG STORES CALIFORNIA,
17 L.L.C., a California limited liability company,
and ARMSTRONG DEVELOPMENT
18 PROPERTIES, INC., a Pennsylvania
corporation,

19 Plaintiffs and Petitioners,

20 v.

21 CITY OF SEBASTOPOL, CITY COUNCIL
22 OF THE CITY OF SEBASTOPOL, and
GLENN SCHAINBLATT, in his official
23 capacity as Building Official of the City of
Sebastopol,

24 Defendants and Respondents.
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Case No. C13-1383 EMC

**STIPULATION REGARDING MOTION
TO DISMISS (FRCP 12(b)(1), (6)), AND
ALTERNATIVELY, MOTION FOR
ABSTENTION UNDER *YOUNGER* AND
COLORADO RIVER; [Proposed] ORDER**

Trial Date: None Set

DEPT: Courtroom 5
JUDGE: Honorable Edward M. Chen

C13-1383 EMC

STIPULATION REGARDING MOTION TO DISMISS (FRCP 12(b)(1), (6)), AND ALTERNATIVELY, MOTION
FOR ABSTENTION UNDER *YOUNGER* AND *COLORADO RIVER*; [Proposed] ORDER

STIPULATION

1. On March 28, 2013, Plaintiffs and Petitioners LONGS DRUG STORES CALIFORNIA, L.L.C. and ARMSTRONG DEVELOPMENT PROPERTIES, INC. (“Petitioners”) filed their Verified Complaint for Injunctive Relief and Damages; Verified Petition for Writ of Mandate (“Federal Action”) against Defendants and Respondents CITY OF SEBASTOPOL, CITY COUNCIL OF THE CITY OF SEBASTOPOL, and GLENN SCHAINBLATT (collectively, “City”).

2. Currently pending in Sonoma County Superior Court (Case No. SCV252962) is Petitioners’ Complaint for Declaratory Relief, Injunctive Relief, and Damages; Petition for Writ of Mandate (“State Action”), which also names the City of Sebastopol and the City Council of the City of Sebastopol as Defendants and Respondents, and contains substantially similar allegations to those contained in the Federal Action.

3. On May 8, 2013, the City filed a motion to dismiss the Federal Action under FRCP Rule 12(b)(1) and (6) and, alternatively, a motion asking this Court to abstain from hearing the Federal Action under the *Younger* and *Colorado River* abstention doctrines (“Motion”).

4. The parties have met and conferred and reached an informal resolution of the City’s Motion.

NOW, THEREFORE, THE PARTIES HERETO DO HEREBY STIPULATE AS FOLLOWS:

1. The City withdraws its Motion.

2. The City stipulates to the Federal Court’s jurisdiction.

3. Petitioners agree that the Federal Action does not seek to vacate or set aside the City’s adoption of the First Urgency Ordinance a.k.a. the First Moratorium Ordinance, adopted by the City on December 18, 2012. The parties agree that no amendment of the Federal Action is required.

4. Petitioners will dismiss the State Action with prejudice after the initial case management conference now scheduled for June 27, 2013, provided the case proceeds in this Court.

1 DATED: June __, 2013

MEYERS, NAVE, RIBACK, SILVER & WILSON

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By: /S/ Edward Grutzmacher

4

Edward Grutzmacher

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Attorneys for Defendants and Respondents

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CITY OF SEBASTOPOL; CITY COUNCIL OF

THE CITY OF SEBASTOPOL; and GLENN

SCHAINBLATT

7

8 DATED: June __, 2013

ALLEN MATKINS LECK GAMBLE MALLORY &
NATSIS LLP

9

10

By: /S/ Michael J. Betz

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Michael J. Betz

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Attorneys for Plaintiffs and Petitioners

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LONGS DRUG STORES CALIFORNIA, L.L.C.

and ARMSTRONG DEVELOPMENT

14

PROPERTIES, INC.

15

I hereby attest that I have on file all holographic signatures corresponding to any signatures

16

indicated by a conformed signature (/S/) within this e-filed document.

17

DATED: June __, 2013

MEYERS, NAVE, RIBACK, SILVER & WILSON

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By: /S/ Edward Grutzmacher

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Edward Grutzmacher

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Attorneys for Defendants and Respondents

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CITY OF SEBASTOPOL; CITY COUNCIL OF

THE CITY OF SEBASTOPOL; and GLENN

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SCHAINBLATT

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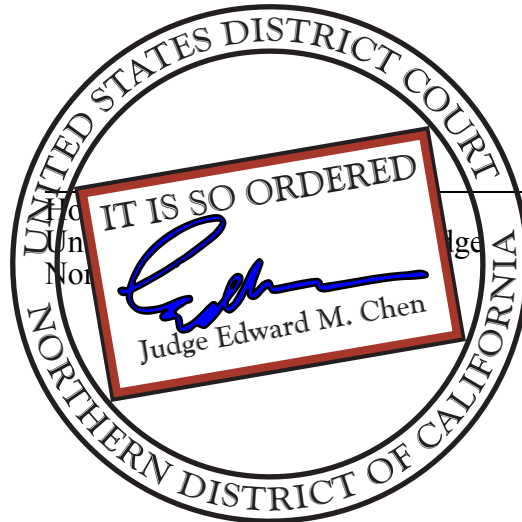
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~~Proposed~~ ORDER

PURSUANT TO THE ABOVE STIPULATION, IT IS SO ORDERED THAT:

1. The City's Motion to Dismiss and Motion for Abstention is withdrawn.
2. This Court shall not consider Petitioners' claims as seeking to vacate or set aside the City's adoption of the First Urgency Ordinance a.k.a. the First Moratorium Ordinance, adopted by the City on December 18, 2012. No amendment to the Federal Action is required.
3. Petitioners will dismiss the State Action with prejudice after the initial case management conference now scheduled for June 27, 2013, provided the case proceeds in this Court.

DATED: 6/10/13



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