1 2 3 4 5 6	ANTHONY C. RODRIGUEZ (State Bar No. LAW OFFICE OF ANTHONY C. RODRIG 1425 LEIMERT BOULEVARD, SUITE 101 OAKLAND, CALIFORNIA 94602 Telephone: (510) 336-1536 Facsimile: (510) 336-1537 Email: arodesq@pacbell.net	UEZ		
7	Attorney for Petitioner Besaro Mobile Home Park, LLC, dba Besaro Mobile Home Park			
8	UNITED STATES DISTRICT COURT			
9	NORTHERN DISTRICT OF CALIFORNIA			
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11	Besaro Mobile Home Park, LLC, dba Besaro Mobile Home Park) Case No. C10-00478 CW		
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13	Petitioner,	 STIPULATION AND [PROPOSED] ORDER STAYING FEDERAL 		
14	VS.	 PROCEEDINGS PENDING COMPLETION OF STATE COURT 		
15	The City of Fremont, the City of Fremont Rent Review Officer, May Lee, the City of Fremont Hearing Officer,	PROCEEDINGS - AS MODIFIED		
16	Ruth S. Astle,	ý)		
17 18	Respondents,))		
19	The Tenants Residing at Besaro Mobile Home Park,)))		
20	Real Parties In Interest.			
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	STATE COURT PROCEEDINGS	AL PROCEEDINGS PENDING COMPLETION OF Case No. C10-00478 CW 1 -		

Petitioner Besaro Mobile Home Park, LLC, dba Besaro Mobile Home Park and Respondents, the City of Fremont and May Lee, stipulate as follows:

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STIPULATION

1. The Petitioner owns Besaro Mobile Home Park in Fremont, California. In or about 4 January of 2009, the Petitioner applied for a "major" rent increase pursuant to the City of 5 Fremont's mobilehome rent control ordinance, seeking to have the rent increased to \$895 per 6 7 month at each of the 236 spaces at the park.

8 2. The City of Fremont has advised that it asked the State Office of Administrative 9 Hearings ("OAH") to assign a hearing officer to Petitioner's major rent increase application 10 pursuant to an existing contract between the City and OAH and that OAH assigned Ruth S. Astle ("the hearing officer"). On or about November 4, 2009, the hearing officer issued her 11 12 decision, denying the requested rent increase.

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3. On February 2, 2010, the Petitioner filed this action in the United States District 14 Court for the Northern District of California, seeking judicial review of the hearing officer's 15 decision, pursuant to federal law. Besaro Mobile Home Park, LLC v. City of Fremont, 16 Northern District of California Case No. C10-00478 ("the federal court proceedings").

17 4. Later that same day, the Petitioner filed a Petition for a Writ of Administrative 18 Mandamus in the Alameda County Superior Court, seeking judicial review of the hearing 19 officer's decision, pursuant to state and local law. Besaro Mobile Home Park, LLC v. City of 20 Fremont, Alameda County Superior Court No. HG10496925 ("the state court proceedings").

21 5. The Petitioner alleged in both the federal court proceedings and the state court 22 proceedings that it was reserving "the right to seek a determination in federal court of any and 23 all federal questions and/or claims arising out of or in any way related to its 'major' rent 24 increase application and/or the City of Fremont's mobilehome rent control ordinance, 25 including any claims under 42 U.S.C. Section 1983 and/or the due process, takings and equal 26 protection clauses of the United States Constitution," citing England v. Louisiana State Bd. 27 of Medical Examiners, 375 U.S. 411, 418-422 (1964) and Los Altos El Granada Investors v.

1 *City of Capitola*, 583 F. 3d 674, 684-690 (9th Cir. 2009).

2 6. Respondents the City of Fremont and May Lee have stated that if the Petitioner does 3 not stipulate to a stay of the federal court proceedings, they intend to file a motion requesting 4 this Court to dismiss, abstain and/or stay the federal court proceedings while the state court 5 proceedings are pending, relying on, inter alia, Williamson County Regional Planning 6 Commission v. Hamilton Bank of Johnson City, 473 U.S. 172, 192-195 (1985); Younger v. 7 Harris, 401 U.S. 37 (1971); Railroad Commission of Texas v. Pullman Co., 312 U.S. 496 (1941); Gilbertson v. Albright, 381 F. 3d 965, 968 (9th Cir. 2004), the District Court's ruling 8 9 in Besaro Mobile Home Park, LLC v. City of Fremont, Case No. C05-02886 and the Ninth 10 Circuit Court of Appeal's ruling in Besaro Mobile Home Park, LLC v. City of Fremont, Case 11 No. 06-17201.

The Petitioner acknowledges that this Court is likely to stay the federal court
proceedings while the state court proceedings are pending. *Los Altos El Granada Investors v. City of Capitola*, 583 F. 3d 674, 684-690 (9th Cir. 2009) and *Gilbertson v. Albright*, 381 F.
3d 965, 968 (9th Cir. 2004).

8. Rather than incurring additional time and expense litigating the proposed motion,
the Petitioner and Respondents the City of Fremont and May Lee agree that the federal court
proceedings should be stayed pending final resolution of the state court proceedings.
Accordingly, the Petitioner and Respondents the City of Fremont and May Lee respectfully
request this Court to stay the federal court proceedings until the state court proceedings are
finally resolved.

IT IS SO STIPULATED:
 Dated: May 19, 2010 Law Office of Anthony C. Rodriguez
 s/ Anthony C. Rodriguez
 s/ Anthony C. Rodriguez
 Attorney for the Petitioner
 STIPULATION AND ORDER STAYING FEDERAL PROCEEDINGS PENDING COMPLETION OF

1	Dated: May 19, 2010	Richards, Watson & Gershon
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3		s/ Rochelle Browne By: Rochelle Browne Attorney for Respondents the City of Fremont and May
;		Attorney for Respondents the City of Fremont and May Lee
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2	ORDER			
3	Pursuant to the stipulation of the parties, and good cause appearing, this action is			
4	hereby stayed, pending final resolution of the state court proceedings, including any and all			
5	appeals. Nothing herein shall preclude any party from seeking to dissolve this stay during the			
6	pendency of the state court proceedings, pursuant to noticed motion filed with this Court. The			
7	parties shall advise this Court within sixty (60) days of the state court proceedings being			
8	finally resolved (including any and all appeals), so that this Court may take any appropriate			
9	action at that time, including scheduling any Case Management Conference that may be			
10	required. The parties shall file a joint status report on November 1, 2010 and every 180 days thereafter.			
11	IT IS SO ORDERED:			
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13	Dated: May <u>27</u> , 2010			
14	(Judiale itt			
15	The Honorable Claudia Wilken			
16	United States District Judge			
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	STIPULATION AND ORDER STAYING FEDERAL PROCEEDINGS PENDING COMPLETION OF STATE COURT PROCEEDINGS Case No. C10-00478 CW - 5 -			

1	Corre No. C10.00479 CW	
1	Case No. C10-00478 CW	
2	PROOF OF SERVICE BY MAILING	
3	I declare I am employed in the County of Alameda, California. I am over the age of	
4	18 years and I am not a party to the within cause. My business address is 1425 Leimert	
5	Boulevard, Suite 101, Oakland, California 94602.	
6		
7	On May 19, 2010 I served the following document:	
8 9	1. STIPULATION AND [PROPOSED] ORDER "STAYING" FEDERAL PROCEEDING PENDING COMPLETION OF STATE COURT PROCEEDINGS	
10	on the following by placing a true copy thereof enclosed in a sealed envelope with	
11	postage thereon fully paid, in the United States mail at Oakland, California, addressed as	
12	follows:	
13	Rochelle Browne, Esq. Richards, Watson & Gershon	
14	355 South Grand Avenue, 40 th Floor Los Angeles, California 90071	
15	Harvey E. Levine, Esq.	
16 17	City Attorney, City of Fremont 3300 Capitol Avenue Fremont, California 94537-5006	
18 19 20	Ruth S. Astle California Office of Administrative Hearings 1515 Clay Street, Suite 206 Oakland, California 94612	
20	I declare under penalty of perjury that the foregoing is true and correct. Executed on	
21	May 19, 2010 at Oakland, California.	
22	Way 19, 2010 at Oakland, Camornia.	
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25	s/ Anthony C. Rodriguez Anthony C. Rodriguez	
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	STIPULATION AND ORDER STAYING FEDERAL PROCEEDINGS PENDING COMPLETION OF STATE COURT PROCEEDINGS Case No. C10-00478 CW - 6 -	