

Case No: 13-9876

In the Court of Appeal of the State of California First Appellate District, Division 3

Grandlands Circus, Inc.,
Appellant/Cross-Respondent
vs.
Hobbs County Animal Safety Department,
Respondent,
Chris Samuelson & Mara's Hope Wildlife Sanctuary
Appellant

Appeal from the Superior Court of Hobbs County
Case No. CV-2014-TCS-81013 (EMH)
The Honorable Ellis M. Heiberg

Brief of (Appellants)

January 17, 2014

Competition Team Number 10

Oral Argument Requested

TABLE OF CONTENTS

TABLE OF CONTENTS.....	2
TABLE OF AUTHORITIES	3
Statutes	3
A STATEMENT OF ISSUES PRESENTED IN THE CASE.....	5
A Statement of the Case Briefly	6
A Statement of Facts	6
STANDARD OF REVIEW	7
SUMMARY OF THE ARGUMENT	8
THE ARGUMENT	8
INVERTION IMPROPER BECAUSE NO DIRECT OR IMMEDIATE INTEREST IN THE LITIGATION	11
NEW ISSUES WOULD BE PRESENTED AS A RESULT OF THE INTERVENTION FROM MARA’S HOPE AND SAMUELSON	12
INTERVENTION BY MARA’S HOPE AND SAMUELSON WOULD UNNECESSARILY EXPAND THE ISSUES.....	13
THE PURPOSES IN ALLOWING MARA’S HOPE AND SAMUELSON TO INTERVENE WILL OUTWEIGH THE ORIGINAL PARTY’S INTEREST IN CONDUCTING ITS OWN LAWSUIT ON ITS OWN TERMS	14
THE SUPERIOR COURT ABUSED ITS DISCRETIONS IN DENYING CIRCUS’S MOTION FOR PRELIMINARY MANDATORY INJUNCTIVE RELIEF BECAUSE CIRCUS SUCCEEDS UNDER THE TWO PRONG TEST.....	14
ALTERNATIVE GROUNDS THAT SHOW THE SUPERIOR COURT ABUSED IT DISCRETION	16
POLICY REASONS FOR WHY THE CIRCUS’S MOTION SHOULD BE GRANTED.....	18
CONCLUSION OF THE PRECISE RELIEF SOUGHT	20

TABLE OF AUTHORITIES

Cases

1. Timberidge Enterprises, Inc. v. City of Santa Rosa (1978) 86 Cal.App.3d 873;
2. Fireman’s Fund Ins. Co v. Gerlach (1976) 56 Cal.App.3d 299 (re interest in the litigation);
3. U.S. Ecology, Inc. v. State of Calif. (2001) 92 Cal.App.4th 113 (re interest in the litigation);
4. Kuperstein v. Superior Court (1988) 204 Cal.App.3d 598 (re presentation of new issues);
5. People v. Trinity County (1983) 147 Cal.App.3d 655 (re balance of interests)
6. *Best Friends Animal Soc’y v. Macerich Westside Pavilion Prop. LLC*, 193 Cal. App. 4th 168 (2011) (In ruling on a motion for preliminary injunction, the Court must consider two interrelated factors.)
7. *Salsedo v. California Department of Parks and Recreation* (2009) 175 Cal.App.4th 1510, for the proposition that mandatory injunctive relief is properly granted where a revoking agency cannot show a likelihood of success on the underlying merits.
8. *Vaughn v. Board of Police Commissioners* (1943) 59 Cal.App.2d 771, 775 The Department argues that, in such circumstances, it had discretion to revoke the permit.
9. *Vincent Petroleum Corp. v. Culver City* (1941) 43 Cal.App.2d 511 (the Department argues that injunctive relief should be granted only where the purported injury is threatened and that, because the permit already has been revoked, the purported “injury” has been completed here.)
10. *People v. Speegle* (1997) 53 Cal.App.4th 1405 (When interpreting California’s animal protection statutes, courts are to use an objective definition of what it means to “deprive” an animal, cause it to “suffer,” provide an animal with adequate space, etc.)
11. *Shoemaker v. Cnty. of Los Angeles*, 37 Cal. App. 4th 618, 624 (1995)
- 13.

Statutes

Cal C. C. P. 387
Cal. Penal Code 596.5
Cal. Penal Code 597
Cal. Penal Code 597t
Hobbs County Municipal Code Section 63.14

A STATEMENT OF ISSUES PRESENTED IN THE CASE

1. Does an individual and organization with the only ties to the Department are fighting for the rights of animals have a case for motion for leave to intervene?
2. Is there a case against abuse of discretion in denying the preliminary mandatory injunctive relief when both the likelihood of the success on merits and the likelihood of suffering irreparable harm in the absence of injunctive relief sway in the favor of Circus?

A Statement of the Case Briefly

Five months after Grandlands Circus (“Circus”) received a 12-month Performing Animal Permit from the Hobbs County Animal Safety Department (“Department”), that permit was revoked citing violations of Hobbs County Municipal Code Section §63.14. Circus filed a complaint against the Department seeking relief in the nature of mandamus and money damages resulting from the lost profits the Circus will suffer if forced to cancel future performances pending the outcome of this litigation. Circus wanted The Circus challenges the revocation of the permit due to the arbitrary and capricious manner surrounding the circumstances. The Department along with Mara’s Hope Wildlife Sanctuary and Chris Samuelson filed a motion for leave to intervene in this action under California Code of Civil Procedure §387. Both the motion for leave to intervene filed by Chris Samuelson and Mara’s Hope Wildlife Sanctuary and the Circus’s motion for a preliminary mandatory injunction were denied by the Superior Court of the State of California for the County of Hobbs.

A Statement of Facts

With a long history of traveling throughout the United States for 51 years sharing the joy of trained circus animals to thousands of families, Grandlands Circus recently was given that privilege to entertain the residents of Hobbs County California. Circus has not had a revocation of its license from any town or county in three years. In addition, the United States Department of Agriculture’s Animal and Plant Health Inspection Service inspected the animals and had no complaints. The Circus does not have any reported violations of the Animal Welfare Act. In

June 2013, Hobbs County Animal Safety Department was granted a 12-month Performing Animal Permit. After providing this service to the Hobbs County community in their first rounds of performance in September, the Department revoked Circus's permit.

The Department decided to revoke the permit only after following the advice of Chris Samuelson and Mara's Hope Wildlife Sanctuary, both of which had never seen the Circus perform. Samuelson's assistant, who was only a freshman at California University at the time, Ms. Penny Hall said that the animals seem tired and thin compared to the animals living at the Sanctuary. This happened a year before the revocation of the permit, and the trial court did not say whether or not she had been back since. Ms. Hall remembering the Circus used to perform in her hometown of West Edmond, Texas but did not know why they did no longer. After asking her law student brother to investigate, it was then discovered that the Circus's permit was not renewed after a veteran report showed stress in the three oldest elephants. Although Samuelson and Mara's Hope are bringing the complaint, neither party has been to a performance of the Circus.

Because of this report, Department revoked the permit without doing any further investigation and refuses to look into reinstating the permit until June of 2014. After exhausting all of their administrative remedies, Circus filed a preliminary mandatory injunction on October 11, 2013. Mara's Hope and Samuelson filed a motion for leave to intervene joining with Department on the same day which was also denied.

STANDARD OF REVIEW

The trial court refused to grant the preliminary mandatory injunction based on its holding that Circus violated Hobbs County Municipal Code Section 63.14 by violating more specific California Criminal Code § 597t. Motion for preliminary mandatory injunction presents an abuse of discretion review for the court. *Shoemaker v. Cnty. of Los Angeles*, 37 Cal. App. 4th 618, 624 (1995). This is a high standard to overcome, and the burden rests with Circus of showing that the trial court judge made a ruling that is arbitrary or absurd. *Shoemaker*, 37 Cal. App. 4th 618 (1995).

SUMMARY OF THE ARGUMENT

There Intervention was improper because Mara's Hope and Samuelson had no direct or immediate interest in the litigation. New issues would be presented as a result of the intervention from Mara's Hope and Samuelson. Intervention by Mara's Hope and Samuelson would unnecessarily expend the issues. The purposes in allowing Mara's Hope and Samuelson to intervene will outweigh the original party's interest in conducting its own lawsuit on its own terms. The Superior Court abused its discretion in denying Circus's motion for preliminary mandatory injunctive relief because Circus succeeds under the two prong test. Alternative grounds that show the Superior Court abused its discretion. And finally, policy reasons for why the Circus's motion should be granted.

THE ARGUMENT

The first factor is the likelihood that the plaintiff will prevail on the merits at trial. The second is the interim harm that the plaintiff is likely to sustain if the injunction were denied as

compared to the harm that the defendant is likely to suffer if the preliminary injunction were issued. (See *Best Friends Animal Society v. Macerich Westside Pavilion Property, LLC* (2011) 193 Cal.App.4th 168.) (rewrite copied from memo)

The Superior Court did not abuse its discretion in denying Samuelson and Mara's Hope motion for leave to intervene because they have not demonstrated how they should be granted intervention as a matter of right or permissive intervention.

After Samuelson's assistant, Penny Hall, visited the Grandlands Circus, Hall expressed her concern for the well being of the animals to her brother. R. at 5. Hall's brother then obtained a three-year-old veterinarian's report regarding the condition of Grandland's Circus performing elephants that was prepared for West Edmond Animal Care and Control in West Edmond Texas in June 2011. *Id.* Following the report, West Edmond Animal Care and Control did not revoke its annual permit, but did choose six months following to not renew the permit. *Id.* at 6. Samuelson then filed an administrative complaint with the Department in his name and in Mara's Hope name alleging that the Circus was in violation of the Hobbs County ordinance respecting Performing Animal Permits. *Id.* The complaint further demanded that the Circus' annual permit be revoked. *Id.* The Department notified Circus that it would be holding an evidentiary hearing. *Id.* Although Circus denied the overall findings and conclusions in the West Edmond report and no veterinarians or experts testified during the Department hearing, the Department decided to revoke the Circus's annual permit. *Id.* at 7. The Circus responded by promptly filed suit against the Department. *Id.* Mara's Hope and Samuelson then filed a motion for leave to file a complaint in intervention, requesting that both applicants be granted leave to intervene. *Id.* The Superior Court correctly denied Mara's Hope and Samuelson's leave to intervene. *Id.*

The California Code of Civil Procedure § 387 governs when a motion for leave to intervene will be granted. *Id.* at 8. Under § 387, there are two forms of intervention: intervention as a matter of right and permissive intervention. *Id.* The Superior Court correctly concluded that there was “no basis for even considering intervention as a matter of right based on the facts set forth herein.” *Id.* However, whether Mara’s Hope and Samuelson should be granted permissive intervention is not as clear to determine and requires analysis. *Id.*

In order to adequately demonstrate that permissive intervention should be granted, a hopeful party must show three things: (1) a direct and immediate interest in the outcome of the litigation; (2) that no new issues will be presented as a result of the intervention; and (3) that the purposes served in allowing the non-party to intervene will outweigh the original party’s interest in conducting its own lawsuit on its own terms. (See generally *Timberidge Enterprises, Inc. v. City of Santa Rosa* (1978) 86 Cal.App.3d 873; *Fireman’s Fund Ins. Co v. Gerlach* (1976) 56 Cal.App.3d 299 (re interest in the litigation); *U.S. Ecology, Inc. v. State of Calif.* (2001) 92 Cal.App.4th 113 (re interest in the litigation); *Kuperstein v. Superior Court* (1988) 204 Cal.App.3d 598 (re presentation of new issues); *People v. Trinity County* (1983) 147 Cal.App.3d 655 (re balance of interests). *R.* at 8-9.

The determination of whether to permit intervention is highly fact-based and the trial court has broad discretion in its determination. *Hinton v. Beck* (2009) 176 Cal. App. 4th 1378, 1387, 98 Cal. Rptr. 3d 612; *City of Malibu v. California Coastal Com.* (2005) 128 Cal. App. 4th 897, 902; *US Ecology, Inc. v. State of California* (2001) 92 Cal. App. 4th 113, 139, 111 Cal. Rptr. 2d 689, citing *People v. Superior Court* (1976) 17 Cal. 3d 732, 737, 131 Cal. Rptr. 800].

INVERTION IMPROPER BECAUSE NO DIRECT OR IMMEDIATE INTEREST IN THE LITIGATION

In order “[t]o avail himself of the right given by [Code Civ. Proc., § 387, authorizing intervention] the applicant must have either an interest in the matter in litigation, *or in the success of one of the parties to the action*, or an interest against both of them. *The interest here referred to must be direct and not consequential*, and it must be an interest which is proper to be determined in the action in which the intervention is sought.” *Isaacs v. Jones*, 121 Cal. 257, 261 [53 P. 793, 1101]. Their interests are also not “proper to be determined in the action in which the intervention is sought” because their concerns are for the general well-being of the elephants, and not just the issuance of permits, which is the subject of this case. *Id.* Mara’s Hope and Samuelson’s interests in the litigation are limited to the general concern for the well-being of animals. Although Mara’s Hope is located in Hobbs County and Samuelson is a resident of Hobbs County, this fact only makes them slightly more interested in the case than anyone else who would claim a concern for the well-being of the Circus elephants and certainly does not enable them to claim an interest in the outcome of the case. Samuelson, as an individual, has never been to see the Circus performances or even viewed the animals personally. R. at 5. Mara’s Hope is an animal sanctuary concerned with the well-being of all wild animals in captivity, but this is not enough to conclude Mara’s Hope has any more of an interest in this case than any other concerned citizen living in Hobb’s County. *Id.* at 4. Mara’s Hope does house various types of wild animals, but it does not house or appear to have any particular knowledge about the treatment of elephants. Neither Mara’s Hope nor Samuelson have a personal complaint against the Circus. *Id.*

**NEW ISSUES WOULD BE PRESENTED AS A RESULT OF THE INTERVENTION
FROM MARA’S HOPE AND SAMUELSON**

The next issues presented by the motion for leave to intervene by Mara’s Hope and Samuelson is the presentation of a new issue than that of the original parties. The presentation of a new issue is seen as an additional issue in the case than what was originally requested by the first party. In the current case, the issue of presentation of a new issue similar to the presentation in *Kuperstein*. In *Kuperstein*, an aquarium storeowner sold an aquarium that started a fire. The owner made a claim to his insurance policy, even though the claim was not covered under the policy and the insurer filed a motion for permissive intervention. *Kuperstein v. Superior Court*, 251 Cal. Rptr. 385 (Cal. Ct. App. 1988). However, the court in that case decided that intervention was not proper because the owner and the insurer sought “different factual resolutions of certain issues, intervention necessarily injects the possibility the defendants will not be able to conduct the lawsuit on their own terms.” *Id.* Similarly to *Kuperstein*, Samuelson and Mara’s Hope both have “different factual resolutions of certain issues” that could interfere with how Department conducts this lawsuit. *Id.* The Department’s ultimate goal for this case is to avoid reissuing Circus’s 12-month Performing Animal Permits for a period of time and to avoid paying damages for the Circus’s lost profits as a result. *Id.*

Samuelson and Mara’s Hope, however, both have different goals and interests in the outcome of this case. Samuelson is the co-founder of Mara’s Hope. Mara’s Hope mission is “endeavoring to educate the public about the harms of keeping wild and exotic animals in captivity, and to advocate for protection of wildlife in the United States and elsewhere.” R. at 4. Mara’s Hope and Samuelson’s interests are not about permits and whether they were adequately revoked. Their concerns involve the much broader concern of the general well-being of the “exotic animals in captivity,” which are the Circus elephants in this situation. *Id.* Mara’s Hope is

a sanctuary that takes in captive animals and their concerns are not limited to any permits, they are concerned with the ultimate well-being and treatment of these elephants no matter if they are in Hobbs County or in another county and could possibly want to seek to rescue these elephants from the Circus. Mara's Hope and Samuelson are using the permits as an excuse to try to address much bigger concerns about the general well-being of the elephants and if they were allowed to intervene, their interests in this case could possibly interfere with defendant Department conducts this case.

The issues in this case involve whether the Department had adequate grounds to revoke the Circus's animal performance permit that is required in order for the Circus to perform in Hobb's County. While the grounds for revocation do involve whether the treatment of the Circus's elephants meet the standards required under the permit, Mara's Hope and Samuelson's interventions would further broaden this issue and create the new issue of the well-being of the elephants in general, and not just in terms of following the guidelines of the permit. Therefore, Mara's Hope and Samuelson fail to pass the second part of the permissive intervention test.

**INTERVENTION BY MARA'S HOPE AND SAMUELSON WOULD UNNECESSARILY
EXPAND THE ISSUES**

Mara's Hope and Samuelson's interventions would unnecessarily expand the issues beyond the issue in this case of whether Department had adequate cause to revoke Circus's animal performance permit. The interventions would open this case up to the much more broad and general issues of the well-being and treatment of the elephants, and not just their treatment as is required to maintain the animal performance permit.

THE PURPOSES IN ALLOWING MARA’S HOPE AND SAMUELSON TO INTERVENE WILL OUTWEIGH THE ORIGINAL PARTY’S INTEREST IN CONDUCTING ITS OWN LAWSUIT ON ITS OWN TERMS

In the case of *Trinity*, the court granted a motion to intervene by an environmental organization because its members had a direct and immediate interest in the outcome of the litigation. See generally *People ex rel. Rominger v. Cnty. of Trinity*, 195 Cal. Rptr. 186 (Ct. App. 1983). The organization’s members would be directly and physically harmed if the spraying of phenoxy herbicides was continuously permitted in the county. *Id.* The court also focused on balancing the interests of parties and determined that the county’s interest in litigating the case did not outweigh the environmental organization’s interest in litigating the case. *Id.* In applying this balancing test to the interests of Department in litigating the case and Mara’s Hope and Samuelson’s interest in litigating the case, it is clear that Department’s interests significantly outweigh Mara’s Hope and Samuelson’s. The Department’s interests derive from their authority and obligation to ensure the permits it issues are valid and that the Circus is following all of the guidelines to keep its permits in Hobbs County. Mara’s Hope and Samuelson’s interests are much more remote and only derive from their general concern for the well-being of wild animals in captivity. However, these limited interests in no way outweigh the interests Department has in the outcome of this case.

THE SUPERIOR COURT ABUSED ITS DISCRETIONS IN DENYING CIRCUS’S MOTION FOR PRELIMINARY MANDATORY INJUNCTIVE RELIEF BECAUSE CIRCUS SUCCEEDS UNDER THE TWO PRONG TEST

The trial court abused its discretion when finding that Circus would not succeed on the merits because the Department would not be able to demonstrate that it acted with its discretion in finding violation of Hobbs County Municipal Code § 63.14, or any of the California Penal

Code mentioned with the Code. As discussed later, Circus was not in violation of § 63.14, subsections (A) (i)-(ii) and Cal. Penal Code § 596.5 as discussed in the Memorandum and with added persuasive material. The real question for this prong of the test is whether Circus violated subsection (A)(iii) and Cal. Penal Code § 597t. The Superior Court abused its discretion when finding Circus violated the Penal Code and Municipal Code.

Hobbs County Municipal Code § 63.14 subsection (A)(iii) states “Specify any permits held in any other city, county or state that have been revoked by an issuing agency at any time within the past three year and the reason for such revocation.” The trial court judge made an abuse of discretion when stating that revocation of permits and refusal to reissue permits were the same thing. *Black’s Law Dictionary* defines revocation as “[a]n annulment, cancellation, or reversal, usu. of an act or power.” REVOCATION, *Black's Law Dictionary* (9th ed. 2009), revocation. Although West Edmonds did not renew the permit, it did not take away the permit in the manner that the Department has. (R. 11). There are no cases used to better explain his reasoning and plenty of room of holes in his reasoning. If refusal to reissue meant the exact same thing as revocation, it should be stated specifically in the ordinance and not left up to the Circus to guess at what they mean. Although it is assumed that West Edmond did not renew Circus’s permit because of the veteran report, there could be other reasons beside the treatment of their animals. No time frame is given for when this report was issued and the month that the renewal was denied. For both the Department and Trial Judge to assume this was the same as a revocation was extremely harsh and is putting words that are not in the original ordinance. Even though the trial court’s argument of safety concerns and missing leading are of some concern of why the two words should be the same, Circus should not have to suffer because of following the Code to the exact word with no case to show otherwise.

California Penal Code § 597t states “Every person who keeps an animal confined in an enclosed area shall provide it with an adequate exercise area. If the animal is restricted by a leash, rope, or chain, the leash, rope, or chain shall be affixed in such a manner that it will prevent the animal from becoming entangled or injured and permit the animal's access to adequate shelter, food, and water. Violation of this section constitutes a misdemeanor. This section shall not apply to an animal which is in transit, in a vehicle, or in the immediate control of a person.”

Even if the Department is convincing in meaning the containers there is also an argument in Circus’s favor. Although the 350 square feet for each elephant in regards to transport containers is 50 square feet less than required, in Exhibit 1 in the American Zoo and Aquarium Association Standards for Elephant Management and Care stated that “The applicant must explain why their facilities are adequate, even though they do not meet the minimum size standard. Accreditation inspectors will take a holistic approach to accreditation, rather than focus on specific size measurements.”

Circus concedes the second prong of the test, because no monetary value was given in the prior complaint.

ALTERNATIVE GROUNDS THAT SHOW THE SUPERIOR COURT ABUSED IT DISCRETION

The Department, Mara’s Hope, and Samuelson will argue that even if the Superior Court abused its discretion in regards to 597t, Circus still was in violation of Hobbs County Municipal Code § 63.14, subdivisions A(i) and A(ii); and Cal. Penal Code § 596.5.

Cal. Penal Code § 596.5 states “It shall be a misdemeanor for any owner or manager of an elephant to engage in abusive behavior towards the elephant, which behavior shall include the

discipline of the elephant by any of the following methods: (a) Deprivation of food, water, or rest. (b) Use of electricity. (c) Physical punishment resulting in damage, scarring, or breakage of skin. (d) Insertion of any instrument into any bodily orifice. (e) Use of martingales. (f) Use of block and tackle.” Cal. Penal Code § 596.5 (West). In Exhibit 1, there was no mention of deprivation of food, water, or rest by Circus. Circus does not use electricity to discipline the elephants nor use any physical punishment resulting in the breakage of the skin. Exhibit 1, p. 2. Martingales and the use of block and tackle were not mentioned, but would have been because the report mentioned tethering. As the trial court points out, the West Edmonds report says that two youngest elephants were in adequate physical condition, and Circus offered to retire the 3 older elephants for performances in Hobbs County. (R at.14)

The Hobbs County Municipal Code § 63.14 subdivisions (A)(i) and A(ii) state “Permit applicants and permit holders must meet the following conditions: (i) Make available medical records and health certificates of all animals, including proof that within the past twelve months a trunk wash culture was performed on any elephant on display and that the elephant tested free of tuberculosis. (ii) Utilize appropriate transport vehicles and transfer cages when moving them to the exhibition location.” Circus conceded during the hearing held on September 27, 2013 that it did not provide the Department with any medical records in connection with its 2013 Performing Animal Permit application. (R. at 6-7). However, as the trial court points out, if the Department needed these records at the time of permitting, Circus could have provided them then.

For subsection A(ii), the trial court explains that the ordinance only required the transport vehicles be adequate and not the transport containers which the court considered a separate matter. (R. at 13). Even if the Department is convincing in meaning the containers there is also

an argument in Circus's favor. Although the 350 square feet for each elephant in regards to transport containers is 50 square feet less than required, in Exhibit 1 in the American Zoo and Aquarium Association Standards for Elephant Management and Care stated that "The applicant must explain why their facilities are adequate, even though they do not meet the minimum size standard. Accreditation inspectors will take a holistic approach to accreditation, rather than focus on specific size measurements." Although this is not the standard for the Department, this approach would allow Circus to not be in violation of A(ii).

After investigating these alternative grounds that Mara's Hope and Samuelson will argue, the same result that the trial court found for these issues will be found. Circus is not in violation of these statues and sections of the ordinance.

POLICY REASONS FOR WHY THE CIRCUS'S MOTION SHOULD BE GRANTED

Even if the trial court's ruling was not an abuse of discretion, the very manner that Circus's permit was revoked was arbitrary and capricious and is a grave injustice that needs to be remedied. Although this complaint from Circus is injunction relief for the reinstatement of their permit for 2013-2014, there are some major policy concerns in regards to the revocation. Ms. Hall viewed the Circus in 2012, a little over a year ago with her family in Hobbs County. This would mean that the Circus received a permit for the 2012-2013 year. Even though this information is not included in the memorandum, it is very possible that Circus was visiting Hobbs County before this year. If Circus was receiving permits in the past without having to follow the Hobbs County Ordinance, the standard was changed in the middle of a permitting year without warning. Because a concerned citizen and animal protection group cried foul, the Department wanted to work double time to show that they would not be pushed over again by allowing Circus to make the changes required to stay within the requirements.

Even if Circus is in violation of the above statues and ordinance, this arbitrary nature of how the revocation occurred should be questioned. A lax standard for several years and then to change is a stricter standard is unfair to any potential permittee and should be applied with the same heavy standard across the board and not just after a citizen and organization of the county, who never attended any of the performances to judge for themselves, brought this complaint.

CONCLUSION OF THE PRECISE RELIEF SOUGHT

Because of the reasons mentioned above, this Court should reverse the Superior Court's denial of the motion the of preliminary mandatory injunction judgment for the Cross-Respondents and uphold the Superior Court's denial of the motion for leave to intervene against the Respondent and Appellant.

Respectfully submitted,

Competition Team Number 10