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COUNTY OF NAPA
CLERK OF THE BOARD

MICHAEL T. CARLSON, ESQ., SBN 184674
MATTHEW K. GOOD, ESQ., SBN 226962
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37 Old Courthouse Square, Fourth Floor
Santa Rosa, California 95404
Telephone: 707/545-1660
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ENDORSED

FEB 11 2014

CLERK OF THE NAPA SUPERIOR COURT
BY D. HERICH
DEPUTY

Attorneys for Defendants
CARLICE, LLC, FRANK C. ALTAMURA and
KAREN L. ALTAMURA

SUPERIOR COURT OF CALIFORNIA

COUNTY OF NAPA

NAPA COUNTY,

Plaintiff,

v.

CARLICE, LLC, FRANK C. ALTAMURA,
KAREN L. ALTAMURA and DOES 1 through
10, inclusive,

Defendants.

CASE NO.: 26-61207

DECLARATION OF FRANK C.
ALTAMURA IN SUPPORT OF MOTION
TO DISSOLVE PRELIMINARY
INJUNCTION OR IN THE
ALTERNATIVE MODIFY PRELIMINARY
INJUNCTION

Date: March 14, 2014

Time: 8:30 a.m.

Dept.: ~~NAPA~~

Honorable ~~Michael Byrne~~ TBA *Dea*

Unlimited Civil

I, FRANK C. ALTAMURA, declare:

1. I am one of the named Defendants in the above-entitled action. I have personal knowledge of the matters stated herein, and if called to testify in this action, could and would testify competently as follows:

BY FAX

2. In 1985, my wife Karen and I established Altamura Vineyards and Winery ("Winery") on our property located at 1701 Wooden Valley Road in Napa, California ("Property"). The Property includes, among other things, a ground-level winery building ("Winery Building") with an upstairs residence ("Residence") and wine cave ("Cave").

3. On or about March 21, 2013, the County of Napa filed an Ex Parte Application for Temporary Restraining Order and Order to Show Cause Regarding Preliminary Injunction and a

LAW OFFICES OF
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O'DONNELL
GRATTAN &
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P.C.

- 1 -
Declaration of Frank C. Altamura in Support of Motion to Dissolve
Preliminary Injunction

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SUPERIOR COURT OF CALIFORNIA

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1 Complaint for Preliminary and Permanent Injunction to Abate a Public Nuisance and for Civil
2 Penalties and Attorneys' Fees. The County filed suit without warning and was apparently
3 concerned about there being no Certificate of Occupancy for the Cave or the Building, despite our
4 having operated the Winery with the County's approval and intimate involvement in all phases of
5 construction since 1997. As set forth in the County's moving papers, the County was concerned
6 that the electrical and plumbing systems in the Cave and Winery Building were "finaled" and
7 further that Certificates of Occupancy were issued for both.

8 4. I was first informed by the County about the need for a Certificate of Occupancy for
9 the Winery Building in or about mid-2010. Upon receiving this notification, I continued to work on
10 the Winery Building and Residence as our budget could afford. As construction of the Winery
11 Building progressed and discussions continued with the County, I formally requested that the
12 County issue a Temporary Certificate of Occupancy to allow beneficial use of the Winery Building.
13 Attached hereto as Exhibit A is a true and correct copy of the request dated September 19, 2012.
14 On September 24, 2012, the County acknowledged this request but just five days earlier on
15 September 19, 2012, the County issued a Notice of Violation for "unauthorized use of the Cave for
16 wine tasting and winery associated barrel storage" and noted that we would be required to submit
17 an application for a use permit modification if the Cave was to be used for winery purposes. As
18 previously stated in my declaration dated March 29, 2013, and submitted in connection with the
19 County's request for a Preliminary Injunction, I have always believed that the Cave was and is
20 included within the original use permit that was issued for the winery in 1995 (#93433-UP).

21 5. In any event, a hearing was held by the Court on March 21, 2013, at which time the
22 Court issued a Temporary Restraining Order that temporarily restricted us, in part, from conducting
23 wine tasting in the Cave and required us to "cease all use and occupancy of the Cave on the
24 Property for any and all Winery related purposes." The Court also issued an Order to Show Cause
25 as to why the County's motion for a preliminary injunction prohibiting use of the winery building
26 and wine cave should not be granted.

27 6. An initial hearing on the preliminary injunction took place on April 9, 2013, but was
28 continued to April 15, 2013. On April 15, 2013, we reached an agreement that would allow the

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1 Court to issue a Preliminary Injunction restraining defendants from conducting wine tasting on the
2 Property or using or occupying the Winery Building until a temporary certificate of occupancy
3 ("TCO") could issue, which I agreed to obtain by April 29, 2013. Attached hereto as Exhibit B is a
4 true and correct copy of the Preliminary Injunction for the Court's convenience.

5 7. On May 9, 2013, this court entered the Stipulation to Modify Preliminary Injunction
6 and Order to allow access to the Cave to maintain the stored wine through May 6, 2013 and further
7 reflect that a 90-day TCO had been issued to allow use of the Winery Building for production
8 purposes. Attached hereto as Exhibit C is a true and correct copy of the Stipulation and Order to
9 Modify Preliminary Injunction for the Court's convenience.

10 8. On May 20, 2013, another hearing took place with regard to the County's request for
11 a Preliminary Injunction to prevent further use of the Cave. On May 23, 2013, the Court granted
12 the County's request for a Preliminary Injunction with respect to the Cave. Attached hereto as
13 Exhibit D is a true and correct copy of the Preliminary Injunction re: the wine cave for the Court's
14 convenience.

15 9. On June 4, 2013, after further discussions with the County, a stipulation was entered
16 into by our attorney and County Counsel's office to modify the Preliminary Injunction as follows:

17 a. The Defendants shall immediately and no later than Thursday, June 20, 2013,
18 apply to the County for a Use Permit Modification so the Cave can be recognized as part of the Use
19 Permit for Altamura Winery.

20 b. The Defendants shall immediately, and no later than Thursday, June 20,
21 2013, apply for a building permit for the plumbing, electrical and mechanical within the Cave ...

22 c. Once the County issues the building permit and the Use Permit Modification
23 is approved, Defendants shall apply for a Temporary Certificate of Occupancy so the wine barrels
24 can remain in the Cave and Defendants' employees can service the wine.

25 d. Once a Use Permit Modification is obtained and the Building Permit is
26 finalized, the County Building Official shall issue a Certificate of Occupancy for the Cave.

27 e. Until such time that a Temporary Certificate of Occupancy of Certificate of
28 Occupancy is issued by the Building Official for the Cave, no person shall enter the Cave, unless

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1 specifically stated above. Attached hereto as Exhibit E is a true and correct copy of the Stipulation
2 To Modify Preliminary Injunction and Order filed on June 12, 2013.

3 10. Thereafter, I diligently and timely pursued Items a-d (above), all to the satisfaction
4 of the County. On June 19, 2013, I applied for a Use Permit Modification to include the Cave as
5 part of the use permit issued back in 1995. After much time, work and expense, the County issued a
6 letter of approval for Very Minor Use Modification on September 20, 2013. Moreover, on June 19,
7 2013, I applied for a building permit for the plumbing, electrical and mechanical within the Cave
8 and since that time have completed all of the work necessary for issuance of the Certificate of
9 Occupancy. There have been no fewer than three inspections of the Cave since June 12, 2013, and
10 we have addressed each and every one of the County's concerns and issues, including the
11 installation of a new ventilation system. A true and correct copy of Plan Review Correction List
12 from the County of Napa dated July 16, 2013 is attached hereto as Exhibit F. All of the
13 outstanding issues identified in the Plan Review Correction List from the County have been fully
14 addressed and there are no outstanding items to complete in order for the County to issue the
15 Certificate of Occupancy for the Cave. A true and correct copy of a Permit History Report from the
16 County of Napa web page for Permit #B13-00935 showing all such inspections is attached hereto as
17 Exhibit G.

18 11. On Friday, January 10, 2014, I spoke with David Guidice about the Certificate of
19 Occupancy for the Cave, and he informed me that a follow-up inspection would be conducted the
20 following week to address items 2-4 on the Correction Notice issued by the County on December
21 18, 2013, a true and correct copy of which is attached hereto as Exhibit H. The final inspection
22 took place and the County agreed the Cave was complete. I have called Mr. Guidice 2-3 times
23 since that inspection, and he has not returned my calls, and the County has yet to issue the
24 Certificate for the Cave.

25 12. The Winery Building, on the other hand, is a different story altogether. Before the
26 County requested the Preliminary Injunction, I had a meeting at the winery with Greg Baxter, Code
27 Enforcement officer for Napa County Dept. of Planning Building and Environmental Services on
28 September 12, 2012. During the meeting, we walked around Winery Building, Cave and

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1 Residence. The reason for the meeting was to determine what we needed to do on the Winery
2 Building to bring the winery into compliance. At that time, I was informed by Greg Baxter that we
3 were probably "90% done" and that we needed to finish the work that we were doing in the Winery
4 Building to obtain the final inspections on the electrical, plumbing and mechanical so we could get
5 our Certificate of Occupancy to keep operating the winery.

6 13. Also during the September 12, 2012 meeting, Greg Baxter suggested that because
7 we have a very large building and project that it should be finished off in phases. In other words,
8 due to the size of the project, it would be better to get the downstairs Winery Building completed
9 first to get the Certificate of Occupancy; then the east wing; and then the remainder of the
10 Residence. Mr. Baxter stated that he fully expected Darrell Mayes (Chief Building Official) would
11 sign off on the downstairs Winery Building and then issue a final Certificate of Occupancy for that
12 portion of the building. Mr. Baxter recognized that our main goal was to get the downstairs done
13 and get the Certificate of Occupancy for the winery. Mr. Baxter further indicated that it is common
14 practice for the County on large projects to perform all inspections and issue a Certificate of
15 Occupancy for one section at a time.

16 14. On November 21, 2012, I met with various representatives from the County of Napa,
17 including Darrell Mayes, Pete Munoa, Dave Guidice and Greg Baxter at the winery. I talked with
18 them about the work we had been doing at the winery and they commented about how it looked like
19 "things were moving right along." We spent most of the time in the Winery Building and Cave to
20 determine what needed to be done in order for us to continue occupying the Winery Building. The
21 majority of the conversation centered around the issue of completing the electrical, plumbing and
22 HVAC and closing up the ceiling of the Winery Building by boxing in the pipes, electrical and
23 HVAC ducts. I was also informed that we needed inspections before we insulated and sheet rocked
24 and also needed to fire caulk around the pipes, conduit and any penetrations through the ceiling in
25 order to seal it off from the upstairs Residence in order to "finish off" the Winery Building. When I
26 asked what needed to be done to finish the Winery Building, Mr. Mayes and Mr. Munoa indicated
27 maybe a half dozen or so things such as the exit light and electrical, and that the Winery Building
28 would then be cleared to obtain our final Certificate of Occupancy.

1 15. After the Preliminary Injunction hearing, on or about April 29, 2013, the County
2 issued a TCO for the Winery Building for production purposes only. The TCO was approved for
3 ninety (90) days. True and correct copies of our request and the County's letter issuing the TCO
4 are collectively attached as Exhibit I. On August 8, 2013, County Counsel requested that we
5 submit another written request to Mr. Mayes, if we were planning to continue to use the Winery
6 Building for production purposes, which of course we were. Thus, on August 22, 2013, I submitted
7 such a request to Mr. Mayes to extend the TCO in order to have some additional time to complete
8 the punch-list items previously provided by the County in order to receive a final Certificate of
9 Occupancy for the Winery Building. A true and correct copy of my written request is attached
10 hereto as Exhibit J, which states in no uncertain terms: "***We wish to extend our TCO which was***
11 ***granted on April 29, 2013 in order to complete the work necessary for our Certificate of***
12 ***Occupancy Final.*** This TCO is for parcel # 033-070-045 and building permit #B98-00096." I
13 never heard back from the County regarding this issue, but nevertheless proceeded to complete the
14 necessary work mandated by the County.

15 16. Then, on November 13, 2013, I received a letter from Mr. Mayes summarizing all of
16 the above, and further stating that it was his understanding that an "oral extension" was granted for
17 an additional ninety (90) day extension of the TCO, from the date of its expiration. In his letter, he
18 draws the conclusion that the TCO (as extended) expired on October 26, 2013; that under Napa
19 County Code section 15.08.070(B), temporary occupancy of a structure is only permitted for one
20 hundred eighty (180) days; that such time has passed; that no further extensions of the TCO can be
21 granted; and that all use of the Winery Building must immediately cease. A true and correct copy
22 of Mr. Mayes' letter of November 13, 2013 is attached hereto as Exhibit K. Given that we had
23 addressed all of the County's concerns, it was a surprise to learn that the County would now be
24 taking the position, for the very first time, that ALL of the work on the Residence had to be
25 completed before we could utilize the Winery Building for our business.

26 17. Since the meetings with the County in late 2012 and the issuance of the Preliminary
27 Injunction, we have completed extensive work on the Winery Building in order to meet the
28 County's demands. We have expended approximately \$350,000-\$400,000 in the process. True and

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1 correct copies of Correction Notices issued after inspections of the Winery Building on April 26,
2 2013 as well as November 15 and 27, 2013 are collectively attached hereto as Exhibit L. Upon
3 completion of this work, all issues have been addressed and have received final sign off from the
4 County and yet we still do not have a Certificate of Occupancy. It has always been my
5 understanding based on conversation with County Officials and from their testimony at the court
6 hearings that once the delineated issues were addressed the County would issue the Certificate of
7 Occupancy.

8 18. From April 29, 2013 (the date I requested an extension on the Winery Building
9 TCO) to the most recent inspection on November 19, 2013, the County came out and inspected the
10 Winery Building on five different occasions as follows:

11 April 29, 2013 – fire.

12 April 29, 2013 – special inspection re: bolting and seismically securing tanks.

13 July 30, 2013 – rough electrical, rough mechanical and rough structural framing.

14 August 13, 2013 – ceiling installation inspection and underfloor insulation inspection.

15 September 17, 2013 and November 19, 2013 – Final Inspection – wallboard inspections.

16 A true and correct copy of a Permit History Report from the County of Napa web page for Permit
17 #B98-00096 showing all such inspections is attached hereto as Exhibit M.

18 19. During the most recent inspection of the wine cave on December 16, 2013, Marcus
19 Johnson (Building Inspector II for the County) indicated to me that all of the work had been
20 completed on the Winery Building for issuance of the final Certificate of Occupancy. Mr. Johnson
21 stated that he was surprised that the Certificate of Occupancy had not yet been issued for that
22 portion of the building. Since that same date, I have made several inquiries and requests to the
23 County to obtain the final Certificate of Occupancy on the Winery Building, but the County has
24 refused to issue one inasmuch as the County is now taking the position, for the very first time, that
25 the upstairs, detached Residence must be completed in order to obtain a final Certificate of
26 Occupancy for the Winery Building. While we are steadily working to finish the Residence in due
27 time (as our budget allows), I never contemplated that the Residence would need to be completed
28 before a Certificate of Occupancy issued on the Winery Building. Until now, the County never

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1 indicated to us that would be a requirement in order to obtain our final Certificate of Occupancy. I
2 have done everything the County has requested of us since the lawsuit was filed in and effort to
3 obtain the Certificates of Occupancy for the Cave and the Winery Building (and in so doing
4 addressed all of the County's safety concerns) yet as of today, we have received nothing in return
5 from the County.

6 20. Our attorneys recently requested that the County issue a formal, written opinion on
7 the matter so that we could pursue our legal remedies, and, thus, on January 6, 2014, Mr. Mayes
8 issued a letter confirming the County's position that it indeed is refusing to issue a Certificate of
9 Occupancy for the Winery Building unless and until the "other" work is completed on the
10 Residence. A true and correct copy of the January 6, 2014 letter is attached hereto as Exhibit N.

11 21. On Friday, January 10, 2014, I filed a Notice of Intent to Appeal that decision with
12 the County Board of Supervisors. In the interim, we ask the Court to terminate the preliminary
13 injunction as whatever "safety" concerns that might have existed when the injunction issued in
14 April 2013, have been address to the satisfaction of the County and no longer exist.

15 22. The County's ongoing witch hunt against our winery has and will continue to cause
16 significant, irreparable harm. Prior to the Preliminary Injunction, we put \$400,000-\$500,000 worth
17 of improvements into the Winery Building and Wine Cave. Since the Preliminary Injunction was
18 issued, we have expended an additional \$350,000-\$400,000 and countless man hours meeting all of
19 the County's demands. But now, after extending all of this time and money, the County has
20 changed its position. Furthermore, there is currently at the property approximately \$15,000,000-
21 \$20,000,000 worth of wine that must be handled correctly. If we are not able to use the Winery
22 Building and the wine is lost or damaged, our losses will be immeasurable, and we will likely be
23 forced out of business. In addition to the tangible losses, our brand name reputation has taken a
24 significant hit as a result of the County's actions. Our sales are down approximately 20%.
25 Customers and distributors alike think the winery is closed because of the negative, one-sided
26 media attention that the County's baseless actions have garnered. I have no idea whether we will
27 ever be able to repair the damage to our reputation, but it can only begin with the dissolution of the
28 Preliminary Injunction.

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GRATTAN &
MITCHELL
P.C.

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I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 5th day of February, 2014, at Napa, California.

"SIGNATURE BY FAX"


FRANK C. ALTAMURA

LAW OFFICES OF
GEARY,
SHEA,
O'DONNELL,
GRATTAN &
MITCHELL



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DESIGNATION

† Certified Specialist
Estate Planning, Trusts & Probate
State Bar of California
Board of Legal Specialization
† Certified Elder Law Attorney
National Elder Law Foundation
* Registered Attorney
U.S. Patent and Trademark Office
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International Association of
Independent Business Law Firms

REPLY TO

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VACAVILLE
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WWW.GAWVANMALE.COM

September 19, 2012

File No.: ALTA3.003

Napa County Building Department
Attn: Darrell Mayes
1195 Third Street, Suite 210
Napa, CA 94559

Re: 1701 Wooden Valley Road, Napa, CA
Napa County APN: 033-070-045
Altamura Winery Use Permit No.: B98-00096

Dear Mr. Mayes:

As discussed at our meeting on September 18, 2012, on behalf of our clients Frank and Karen Altamura, we would like to request the issuance of a Temporary Certificate of Occupancy for the winery portion of the building located at 1701 Wooden Valley Road, Napa, California. Please contact our office with any requests for additional information required in connection with this application for a Temporary Certificate of Occupancy, and please let us know if there are any questions or concerns.

Sincerely,

GAW, VAN MALE, SMITH,
MYERS & REYNOLDS

CONOR J. MASSEY

CJM/slc
cc: Frank and Karen Altamura

ENDORSED

APR 18 2013

Clerk of the Napa Superior Court
By: E. GARCIA
Deputy

1 MINH C. TRAN, County Counsel
(State Bar No. 179932)
2 CARRIE R. GALLAGHER, Deputy
(State Bar No. 222522)
3 COUNTY OF NAPA
1195 THIRD STREET, ROOM 301
4 NAPA, CALIFORNIA 94559-3001
(707) 253-4521
5

6 Attorneys for Napa County
7

8 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 IN AND FOR THE COUNTY OF NAPA

10 NAPA COUNTY,

11 Plaintiff,

12 v.

13 CARLICE, LLC, FRANK C. ALTAMURA, KAREN
14 L. ALTAMURA and DOES 1 through 10, inclusive,

15 Defendants.
16

Case No.: 26-61207

PRELIMINARY INJUNCTION

Dated: April 15, 2013
Time: 8:30 a.m.
Dept: C

17 The application of Plaintiff Napa County for a preliminary injunction came on regularly for
18 hearing by the Court on April 9, 2013 and April 15, 2013 in accordance with an order to show cause
19 issued by this Court on March 21, 2013. Plaintiff appeared by Deputy County Counsel Carrie R.
20 Gallagher and Defendants appeared through Teresa Cunningham.

21 After hearing testimony from Deputy Planning Director John McDowell and Chief Building
22 Official Darrell Mayes, and comments from counsel regarding settlement of the issues:

23 (A) IT IS ORDERED that during the pendency of this action the above-named Defendants,
24 and each of them, and their officers, agents, employees, representatives, and all persons acting in concert
25 or participating with them, are enjoined, restrained, and prohibited as follows:

26 1. Cease wine tasting at Altamura Winery ("Winery") on the property located 1701 Wooden
27 Valley Road, Napa, California and having Assessor Parcel Number 033-070-045 ("Property") until the
28

1 code violations are corrected and the County Building Official issues a Certificate of Occupancy for the
2 Winery.

3 2. Cease all use and occupancy of the Winery on the Property until the violations are
4 corrected and the County Chief Building Official issues a Temporary Certificate of Occupancy for wine
5 production purposes only or a Certificate of Occupancy for the Winery.

6 3. The Temporary Restraining Order issued March 21, 2013, restraining the Defendants and
7 each of them from all uses and occupancy of the Cave on the Property shall remain in effect until the
8 issues are resolved by the Court and the parties at the next hearing, ~~Thursday, April 18, 2013.~~
9 *Monday, May 20, 2013.*

10 (B) NOTWITHSTANDING PARAGRAPHS 1, 2, AND 3 ABOVE, THE PARTIES AGREE
11 TO THE FOLLOWING ADDITIONAL TERMS:

12 1. Defendants agree to obtain the Temporary Certificate of Occupancy for the Winery by
13 April 29, 2013. The Defendants agree to provide the tank attachment details to the County by April 18,
14 2013. The County agrees to respond to the tank attachment submittal by April 23, 2013. The
15 Defendants agree to install the attachments to the tanks by April 26, 2013.

16 2. The Defendants shall be allowed to go into the Winery and the Cave on the Property to
17 maintain the wine through April 29, 2013.

18
19 DATED:

APR 18 2013

J. MICHAEL BYRNE

Judge of the Superior Court

1 TERESA A. CUNNINGHAM, ESQ. (SB #136013)
2 ROBYN B. CHRISTO, ESQ. (SB #263128)
3 GAW VAN MALE
4 A Professional Law Corporation
5 1000 Main Street, 3rd Floor
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11 Attorneys for Defendants, CARLICE, LLC
12 FRANK ALTAMURA and KAREN ALTAMURA

ENDORSED

MAY - 9 2013

Clerk of the Napa Superior Court
By: M. JACOBO
Deputy

13 SUPERIOR COURT OF CALIFORNIA

14 COUNTY OF NAPA

15 NAPA COUNTY

16 Plaintiff,

17 vs.

18 CARLICE, LLC, FRANK C.
19 ALTAMURA, KAREN L. ALTAMURA
20 and DOES 1 through 10, inclusive

21 Defendants.

Case No. 26-61207

STIPULATION TO MODIFY
PRELIMINARY INJUNCTION AND
[PROPOSED] ORDER

22 IT IS HEREBY STIPULATED AND AGREED by and between the parties, by and through
23 their respective attorneys, as follows:

24 1. On April 15, 2013, at the continued hearing on the Court's March 21, 2013 Order to
25 Show Cause, the parties agreed that Defendants would obtain the Temporary Certificate of
26 Occupancy ("TCO") for Altamura Winery by April 29, 2013.

27 2. The parties further agreed that "Defendants shall be allowed to go into the Winery
28 and the Cave on the Property to maintain the wine through April 29, 2013."

3. The Temporary Certificate of Occupancy, which allows Defendants to use the Winery
for production purposes only for 90 days, issued on April 29, 2013.

4. On or about April 30, 2013, the parties, after informal discussions, agreed that
Defendants could continue to access the Cave on the Property to maintain the wine through May 6,

1 2013, and mutually agreed to amend Section B(2) of the Court's April 18, 2013 Preliminary
2 Injunction Order accordingly.

3 Dated: April 22, 2013

GAWVAN MALE

4
5
6 By

TERESA A. CUNNINGHAM
ROBYN B. CHRISTO
Attorneys for Defendants, CARLICE, LLC,
FRANK ALTAMURA and KAREN ALTAMURA

8
9 Dated: April 22, 2013

MINH C. TRAN, County Counsel
ROB PAUL, Deputy
COUNTY OF NAPA

10
11
12
13 By

ROB PAUL
Attorneys for Plaintiff, NAPA COUNTY

14
15
16 **ORDER**

17 Upon reading the Stipulation of the parties, and good cause appearing therefor,

18 IT IS HEREBY ORDERED that:

19 1. Section (B)(2) of the Preliminary Injunction Order entered on April 18, 2013 is
20 hereby amended as follows: "The Defendants shall be allowed to go into Cave on the Property to
21 maintain the wine through May 6, 2013."

22 DATED: May 22, 2013

23
24 JUDGE OF THE SUPERIOR COURT

1 2013, and mutually agreed to amend Section B(2) of the Court's April 18, 2013 Preliminary
2 Injunction Order accordingly.

3 Dated: April 30, 2013

GAWVAN MALE

4
5
6 By

TERESA A. CUNNINGHAM
ROBYN B. CHRISTO
Attorneys for Defendants, CARLICE, LLC,
FRANK ALTAMURA and KAREN ALTAMURA

9 Dated: April 30, 2013

10 MINH C. TRAN, County Counsel
11 ROB PAUL, Deputy
12 COUNTY OF NAPA

13 By

14 ROB PAUL
Attorneys for Plaintiff, NAPA COUNTY

15
16 **ORDER**

17 Upon reading the Stipulation of the parties, and good cause appearing therefor,

18 IT IS HEREBY ORDERED that:

19 1. Section (B)(2) of the Preliminary Injunction Order entered on April 18, 2013 is
20 hereby amended as follows: "The Defendants shall be allowed to go into Cave on the Property to
21 maintain the wine through May 6, 2013."

22 DATED: May 9, 2013

23 J. MICHAEL BYRNE

24 JUDGE OF THE SUPERIOR COURT
25
26
27
28

1 Napa County v. Carlice, LLC, et al.
2 Napa County Superior Court Case No. 26-61207

3
4 PROOF OF SERVICE

5 I, CATHY J. SULLIVAN, declare:

6 I am employed in the County of Napa, State of California. I am over the age of eighteen
7 years and not a party to the within action. My business address is 1000 Main Street, 3rd Floor, Napa,
8 California 94559.

9 On the below date, I served the attached:

10 STIPULATION TO MODIFY PRELIMINARY INJUNCTION AND [PROPOSED] ORDER

11 on the parties to this action by placing a true copy thereof, enclosed in a sealed envelope, addressed
12 as follows:

13 Carrie R. Gallagher, Esq.
14 Rob Paul, Esq.
15 Deputy County Counsel
16 County of Napa
17 1195 Third Street, Room 301
18 Napa, CA 94559-3001

19 ☒ (BY MAIL) I placed each such sealed envelope with postage thereon fully prepaid
20 for first-class mail, for collection and mailing at Napa, California, following ordinary business
21 practices. I am readily familiar with my business' practice for collection and processing of
22 correspondence for mailing with the United States Postal Service, and correspondence is deposited
23 daily with the United States Postal Service in the ordinary course of business.

24 ☒ (BY PERSONAL SERVICE) I caused such envelope to be delivered by hand to the
25 addressee(s) noted above.

26 ☐ (BY FACSIMILE) I caused said document to be transmitted by telecopier to the
27 number indicated after the address(es) noted above.

28 ☐ (BY FEDERAL EXPRESS) By placing a true copy enclosed in a sealed envelope
with fees thereon prepaid for delivery via Federal Express to the addressee(s) noted above.

I declare under penalty of perjury under the laws of the State of California that the foregoing
is true and correct.

Executed on May 1, 2013 at Napa, California.


CATHY J. SULLIVAN

1 MINH C. TRAN, County Counsel
(State Bar No. 179932)
2 CARRIE R. GALLAGHER, Deputy
(State Bar No. 222522)
3 COUNTY OF NAPA
1195 THIRD STREET, ROOM 301
4 NAPA, CALIFORNIA 94559-3001
(707) 253-4521

5
6 Attorneys for Napa County

FILED

MAY 24 2013

Clerk of the Napa Superior Court
By: [Signature]
Deputy

7
8 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 IN AND FOR THE COUNTY OF NAPA
10

11 NAPA COUNTY,

12 Plaintiff,

13 v.

14 CARLICE, LLC, FRANK C. ALTAMURA, KAREN
15 L. ALTAMURA and DOES 1 through 10, inclusive,

16 Defendants.
17

Case No.: 26-61207

PRELIMINARY INJUNCTION

Date: May 23, 2013

Time: 8:30 a.m.

Dept: N

18 The application of Plaintiff Napa County for a preliminary injunction came on regularly for
19 hearing by the Court on April 9, 2013 and April 15, 2013. On April 15, 2013, upon Stipulation by the
20 parties, the Court issued a preliminary injunction relating to the use and occupancy of the Winery on the
21 property located at 1701 Wooden Valley Road, Napa, California and having Assessor Parcel Number
22 033-070-045 ("Property"). On April 18, 2013, the Court continued the hearing on the County's request
23 for a preliminary injunction for the Cave on the Property to May 20, 2013. Plaintiff appeared by Deputy
24 County Counsel Carrie R. Gallagher and Defendants appeared through Teresa Cunningham.

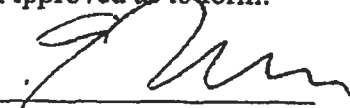
25 After hearing testimony from Deputy Planning Director John McDowell, Chief Building Official
26 Darrell Mayes, Assessor-Recorder-County Clerk John Tuteur, Building Inspector David DeLong,
27 attorney Malcolm Mackenzie, defendant Frank Altamura, reviewing all evidence submitted and
28 arguments from counsel, the Court makes the following findings:

cc\DAC\Bldg\Altamura\5.23.13PreliminaryInjunction.doc

- 1 1. The Court finds that it is reasonably probable that the County will prevail at trial.
- 2 2. The Court finds that the potential harm to the public outweighs the potential harm to the
- 3 Defendants.
- 4 3. The Court grants Napa County's request for a preliminary injunction.

5
6 IT IS ORDERED that during the pendency of this action the above-named Defendants, and each
7 of them, and their officers, agents, employees, representatives, and all persons acting in concert or
8 participating with them, are ordered to cease all use and occupancy of the Cave on the Property at
9 Altamura Winery located 1701 Wooden Valley Road, Napa, California and having Assessor Parcel
10 Number 033-070-045 until the County Building Official issues a Certificate of Occupancy.

11 Approved as to form:

12 
13 Elizabeth Nuss for Teresa
14 A. Cunningham

15 DATED:

16 May 24/2013

17 
18 J. Michael Byrne
19 Judge of the Superior Court
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PROOF OF SERVICE

Napa County v. Carlice, LLC, et al.

Napa Superior Court No. 26-61207

I, Susan M. Ingalls, declare:

I am a resident of the State of California and over the age of eighteen years, and not a party to the within action or proceeding; my business address is 1195 Third Street, Suite 301, Napa, California 94559. On May 30, 2013, I served the within document(s);

NOTICE OF ENTRY OF PRELIMINARY INJUNCTION

- ☒ by placing, or causing to be placed, the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at Napa County, California, addressed as set forth below.
- ☐ by placing, or causing to be placed, a true copy thereof enclosed in a sealed envelope, by **registered or certified mail, return receipt requested**, with postage thereon fully prepaid, in the United States mail at Napa County, California, addressed as set forth below.
- ☐ by personally delivering, or causing to be delivered, a true copy thereof to the person(s) and at the address(es) set forth below.
- ☐ by personally delivering, or causing to be delivered, a true copy thereof to the court folder of the addressee.

TERESA A. CUNNINGHAM, ESQ.

GAW VAN MALE LAW OFFICE

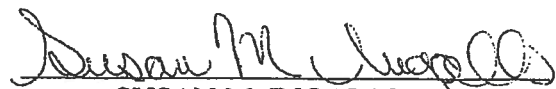
1000 Main Street, 3rd Floor

Napa, California 94559

Attorney for Defendants

I am readily familiar with the practice of Napa County Counsel's Office, for the collection and processing of correspondence for mailing. Under that practice it would be deposited with the United States Postal Service on the same day with postage thereon fully prepaid in the ordinary course of business.

I declare under penalty of perjury that the foregoing is true and correct, and that this declaration was executed on May 30, 2013, at Napa, California.


SUSAN M. INGALLS

1 MINH C. TRAN, County Counsel
(State Bar No. 179932)
2 CARRIE R. GALLAGHER, Deputy
(State Bar No. 222522)
3 COUNTY OF NAPA
1195 THIRD STREET, ROOM 301
4 NAPA, CALIFORNIA 94559-3001
(707) 253-4521
5

6 Attorneys for Napa County
7

8 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 IN AND FOR THE COUNTY OF NAPA
10

11 NAPA COUNTY,

12 Plaintiff,

13 v.

14 CARLICE, LLC, FRANK C. ALTAMURA, KAREN
15 L. ALTAMURA and DOES 1 through 10, inclusive,

16 Defendants.
17

Case No.: 26-61207

STIPULATION TO MODIFY
PRELIMINARY INJUNCTION AND
~~PROPOSED~~ ORDER

18 IT IS HEREBY STIPULATED AND AGREED by and between Plaintiff Napa County
19 ("County") and Defendants Carlce, LLC, Frank Altamura and Karen Altamura ("Defendants"),
20 collectively referred to as "Parties", by and through their respective attorneys, as follows:

21 1. On May 23, 2013, the Court ordered that during the pendency of this action the above-
22 named Defendants, and each of them, and their officers, agents, employees, representatives, and all
23 persons acting in concert or participating with them, are ordered to cease all use and occupancy of the
24 Cave on the Property at Altamura Winery located 1701 Wooden Valley Road, Napa, California and
25 having Assessor Parcel Number 033-070-045 until the County Building Official issues a Certificate of
26 Occupancy.

27 2. The Parties, after informal discussions, have agreed to the following:
28

cc:\DIC\EBldg\Altamura\5.23.13PreliminaryInjunction.doc

EXHIBIT A

MODIFICATION TO PRELIMINARY INJUNCTION

FILED

JUN 12 2013

Clerk of the Napa Superior Court
By: Valdant
Deputy

RECEIVED

JUN 04 2013

Napa Superior Court

1 a. The Defendants shall immediately, and no later than Thursday June 20, 2013, apply to
2 the County for a Use Permit Modification so the Cave can be recognized as part of the Use Permit for
3 Altamura Winery.

4 b. The Defendants shall immediately, and no later than Thursday June 20, 2013, apply for a
5 building permit for the plumbing, electrical and mechanical within the Cave. Defendants' hired
6 architect or plumbing/electrical/mechanical professionals may enter the Cave in order to draw the
7 necessary plans for the application for a building permit.

8 c. Once the County issues the building permit and the Use Permit Modification is approved,
9 Defendants shall apply for a Temporary Certificate of Occupancy so the wine barrels can remain in the
10 Cave and Defendants' employees can service the wine.

11 d. Once a Use Permit Modification is obtained and the Building Permit is finalized, the
12 County Building Official shall issue a Certificate of Occupancy for the Cave.

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1
2 e. Until such time that a Temporary Certificate of Occupancy or Certificate of Occupancy is
3 issued by the Building Official for the Cave, no person shall enter the Cave, unless specifically stated
4 above.

5
6 GAW VAN MALE

7
8 DATED: June 4, 2013

9 By: Teresa A. Cunningham
10 TERESA A. CUNNINGHAM
11 ROBYN B. CHRISTO
12 Attorneys for Defendants, CARLICE, LLC,
13 FRANK ALTAMURA and KAREN
14 ALTAMURA

15
16 MINH TRAN, County Counsel

17
18 DATED: June 4, 2013

19 By: Carrier R. Gallagher
20 CARRIER R. GALLGHER
21 Deputy County Counsel

22 ORDER

23 Good cause appearing, IT IS HEREBY ORDERED that the Parties' Stipulation is approved, the
24 May 23, 2013 Preliminary Injunction is modified to include the terms as stated in paragraph 2 above and
25 the Parties are ordered to comply with its terms.

26
27 DATED: June 11, 2013

28 J. Michael Byrne
Judge of the Superior Court

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PROOF OF SERVICE

Napa County v. Carlice, LLC, et al.
Napa Superior Court No. 26-61207

I, Susan M. Ingalls, declare:

I am a resident of the State of California and over the age of eighteen years, and not a party to the within action or proceeding; my business address is 1195 Third Street, Suite 301, Napa, California 94559. On June 17, 2013, I served the within document(s);

NOTICE OF ENTRY OF ORDER

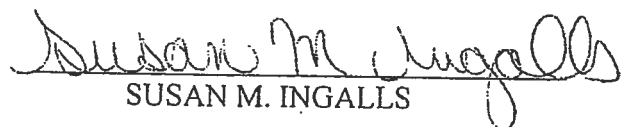
- ☒ by placing, or causing to be placed, the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at Napa County, California, addressed as set forth below.
- ☐ by placing, or causing to be placed, a true copy thereof enclosed in a sealed envelope, by **registered or certified mail, return receipt requested**, with postage thereon fully prepaid, in the United States mail at Napa County, California, addressed as set forth below.
- ☐ by personally delivering, or causing to be delivered, a true copy thereof to the person(s) and at the address(es) set forth below.
- ☐ by personally delivering, or causing to be delivered, a true copy thereof to the court folder of the addressee.

TERESA A. CUNNINGHAM, ESQ.
GAW VAN MALE LAW OFFICE
1000 Main Street, 3rd Floor
Napa, California 94559

Attorney for Defendants

I am readily familiar with the practice of Napa County Counsel's Office, for the collection and processing of correspondence for mailing. Under that practice it would be deposited with the United States Postal Service on the same day with postage thereon fully prepaid in the ordinary course of business.

I declare under penalty of perjury that the foregoing is true and correct, and that this declaration was executed on June 17, 2013, at Napa, California.


SUSAN M. INGALLS

NAPA COUNTY BUILDING INSPECTION DEPARTMENT

CONTACT: FRANK ALTAMURA **TITLE:** OWNER **APP:** B13-00935 **BIN:** 18
PHONE: 707-253-2000 **EMAIL:** altamurawinery@aol.com
OWNER: SAME **PROPOSED:** CAVE UTILITIES
APN: 033-070-045 **ADDRESS:** 1701 WOODEN VALLEY RD **DATE:** 07/16/2013

A review of your PLAN for the above-referenced project has been performed by the building department. Unfortunately the plan submitted is incomplete. Please review requirements listed below and resubmit. Napa County is enforcing Title 24 Parts 1 through 12 of the 2010 California Codes with modifications as referenced by Napa County Ordinances.

**** THIS PROJECT HAS BEEN IDENTIFIED AS A CODE VIOLATION.**

1) DESCRIPTION:

1. Install utilities in unpermitted cave: PLUMBING, ELECTRICAL & MECHANICAL VENTILATION per plan & code.

2) COVER SHEET & MISC PLAN REQUIREMENTS: *BELOW IS A LIST OF ITEMS NEEDED TO MOVE FORWARD.

1. 2010 CRC, CEC, CPC, CMC, CAL GREEN & 2008 CA ENERGY CODES TO BE REFERENCED.
2. CONSTRUCTION TYPE TO BE SHOWN.
3. CAVE OCCUPANCY TYPE (I, II, or III) TO BE SHOWN.
4. ACTUAL SQ FOOTAGE OF CAVE TO BE SHOWN.
5. OCCUPANCY AND USE OF CAVE AND EACH SECTION TO BE SHOWN.
 - A. BARREL STORAGE LAYOUT PLAN, EQUIPMENT LAYOUT PLAN, ETC.
6. FIRE SPRINKLERS IF REQUIRED TO BE SHOWN & PERMITTED.
7. JOB DESCRIPTION AS SHOWN ON LINE ITEM 1) ABOVE TO BE SHOWN.
8. ACCESSIBLE ROUTE WITH DIMENSIONS TO BE SHOWN.
9. INGRESS/EGRESS:
 - A. DOOR TYPES, HARDWARE ETC TO BE SHOWN.
 - B. EXITS LABELED.
 - C. EXIT SIGNS ETC TO BE SHOWN.
10. ELECTRICAL:
 - A. LOAD CALCULATIONS NEEDED.
 - B. MAIN SERVICE & SUBPANELLOCATION(S) NEEDED FOR REVIEW.

11. ENGINEERED MECHANICAL VENTILATION PLAN & SPECS SHOWING EQUIPMENT LOCATIONS, SIZES, ETC REQUIRED PER CBC 402.1; 402.1.1; 402.3; ETC.

12. PLAN SETS TO BE NEW & FREE OF ALL PREVIOUS STAMPS, ETC.

13. PLAN SHEETS, WHEN COMPARED MUST SHOW SAME STRUCTURE FROM SHEET TO SHEET. SITE PLAN DIFFERS FROM ENGINEERS PLANS.

14. VALUATION SUBMITTED IS EXTREMELY LOW.

15. ADA ACCESSIBILITY REQUIREMENTS TO BE SHOWN ON PLAN.

3) MECHANICAL:

1. ENGINEERED PLAN SHOWING EQUIPMENT LOCATIONS, CALCULATIONS, COMBUSTION & BREATHING AIR REQUIREMENTS, ETC.

* THIS PLAN REVIEW CORRECTION LIST DOES NOT INCLUDE ANY OF THE OTHER NAPACO DIVISIONS COMMENTS, BUT WAS EMAILED EARLY FOR YOUR CONVENIENCE. IT ALSO DOES NOT AUTHORIZE OR APPROVE ANY OMISSION OR DEVIATION FROM THE REQUIREMENTS OF STATE LAWS OR LOCAL ORDINANCES.

BEN REYNOLDS

NAPA COUNTY

FIELD INSPECTION SUPERVISOR

PLANS EXAMINER

1195 3RD ST SUITE # 210

Napa, CA 94559

Desk - 707-253-4376

Fax- 707-299-4402

BEN.REYNOLDS@COUNTYOFNAPA.ORG



A Tradition of Stewardship
A Commitment to Service

County of Napa

1195 Third Street
Napa, CA 94559
www.countyofnapa.org

Permit History Report for Permit # B13-00935

Permit History

B13-00935 - { Building / Commercial / Winery / Cave Storage / Alteration }

Applied Date: 6/19/2013
Permit Status: Issued as of 10/7/2013
Assigned Staff: CHRISTOPHER ROSE

Permit Activity

E-Mail Contact

-Building Review was Approved on 09/20/2013	BEN.REYNOLDS@countyofnapa.org
-Planning Review was Approved on 10/03/2013	Charlene.Gallina@countyofnapa.org
-Application Acceptance was Application Received on 06/20/2013	Christopher.Rose@countyofnapa.org
-Schools Review was Approved on 10/07/2013	Christopher.Rose@countyofnapa.org
-Issuance was Issued on 10/07/2013	Christopher.Rose@countyofnapa.org
-Time Tracking was Notes on 12/13/2013	Christopher.Rose@countyofnapa.org
-Engineering Review was Approved on 07/10/2013	Peter.Corelis@countyofnapa.org
-Fire Review was Approved on 07/16/2013	Pete.Munoa@countyofnapa.org
-EH Review was Approved on 09/26/2013	Sheldon.Sapoznik@countyofnapa.org
-Consumer Protection was Approved on 09/26/2013	Sheldon.Sapoznik@countyofnapa.org
-Land Use was Approved on 09/26/2013	Sheldon.Sapoznik@countyofnapa.org
-Pollution Prevention was Approved on 09/26/2013	Sheldon.Sapoznik@countyofnapa.org
-Solid Waste was Approved on 09/26/2013	Sheldon.Sapoznik@countyofnapa.org

Permit Inspections

F3-Final Napa County Fire: Scheduled on 07/16/2014
A7-Final Building: Scheduled on 09/20/2014
F4-Final Engineering Division: Scheduled on 07/10/2014
PW – Temp Occupancy Cert: Passed on 10/14/2013
Bldg – Temp Occupancy Cert: Failed on 10/18/2013
Fire – Temp Occupancy Cert: Passed on 11/05/2013
46- Rough Mechanical: Passed on 12/17/2013
45- Rough Electrical: Passed on 12/18/2013
For more information regarding inspections, email buildinspections@countyofnapa.org

NAPA COUNTY BUILDING INSPECTION DIVISION

1195 THIRD ST., SUITE 210, NAPA CA 94559

CORRECTION NOTICE

Permit # 313.00935 Address 1701 WOODER VALLEY

I have this day inspected this structure and these premises and have found violations of County and/or State law governing same.

You are hereby notified that the listed violations are to be corrected:

- ☒ When corrections have been made, please call for a re-inspection at 253-4416.
- ☐ Re-inspection fee required to be paid prior to next inspection at the above address.
- ☐ Revisions are to be submitted to the Building Department.

① STRAP ELECTRIC AT FAU OUTSIDE
AND IN CAVE

② 12" CAVE SHAFTS TO BE 304 SS 22
GAGE LINER DUCT

③ NEED TO INSTALL DAMPERS, WR3
AND FINAL CAPS PER PLAN

④ CONTROL PANEL TO BE PROGRAMMABLE
TO PROVIDE VENTILATION DURING OCCUPIED
HOURS

⑤ FASTEN MOTOR HOUSING TO PAD

8' SHAFT COVERED AND WEATHER PROOFED,
ALSO (2) 12" GRAVITY SHAFTS HAVE BEEN
DRILLED.

ROUGH ELECTRIC AND MECHANICAL
OK

12/18/13
Date

By:

Building Inspector

707

299.1341

Phone

**THIS NOTICE IS REQUIRED TO BE USED ON ALL NON APPROVED
INSPECTIONS AND MUST REMAIN ON SITE WITH THE PERMIT AND
APPROVED PLANS AT ALL TIMES.**

4-8
5-11

NAPA COUNTY BUILDING INSPECTION DIVISION
1195 THIRD ST., SUITE 210, NAPA CA 94559

CORRECTION NOTICE

Permit # B13.00935 Address 1701 WOODEN VALLEY

I have this day inspected this structure and these premises and have found violations of County and/or State law governing same.

You are hereby notified that the listed violations are to be corrected:

- ☒ When corrections have been made, please call for a re-inspection at 253-4416.
- ☐ Re-inspection fee required to be paid prior to next inspection at the above address.
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- ✓ ① STRAP ELECTRIC AT FAU OUTSIDE
AND IN CAVE
- ② 12" CAVE SHAFTS TO BE 304 SS 22
GAGE LINER DUCT
- ③ NEED TO INSTALL DAMPERS, CURB
AND FINAL CAPS PER PLAN
- ④ CONTROL PANEL TO BE PROGRAMMABLE
TO PROVIDE VENTILATION DURING OCCUPIED
HOURS
- ✓ ⑤ FASTEN MOTOR HOUSING TO PAD

8' SHAFT COVERED AND WEATHER PROOFED,
ALSO (2) 12" GRAVITY SHAFTS HAVE BEEN
DRILLED.

ROUGH ELECTRIC AND MECHANICAL
OK

12/18/13
Date

By:


Building Inspector

707
299.1341
Phone



COUNSELORS AT LAW

David B. Gaw ‡
Wyman G. Smith III
S. Scott Reynolds ‡
Teresa A. Cunningham
James R. Forbes
Michael A. Manfredi
Nicholas E. Donovan
Conor J. Massey
Lori A. Hunt
Douglas C. Spletter

Betty L. Homer
James D. Watson
Alonso L. Poiré
Elizabeth A. Conemac
Gentry C. Griffin
Jeffrey P. Stephens
Robyn B. Christo
James G. Haskell
Elizabeth J. Nuss

OF COUNSEL

Nicholas R. Van Male
Christine Craig
Robert E. Lando
Molly A. Garhart

DESIGNATIONS

‡ Certified Specialist,
Estate Planning, Trust & Probate
State Bar of California,
Board of Legal Specialization
† Certified Elder Law Attorney,
National Elder Law Foundation
Member of LAWFACT,
International Association of
Independent Business Law Firms

REPLY TO

NAPA VALLEY

1000 Main Street
3rd Floor
Napa, California
94559-2653

T/707-252-9000
F/707-252-0792

rchristo@gawvanmale.com



WWW.GAWVANMALE.COM

April 29, 2013

File No.: ALTA3.005

VIA EMAIL

Ms. Marci Paton
Planning, Building, and Environmental Services
1195 Third Street, Suite 210
Napa, CA 94559

Re: Altamura Winery – Temporary Certificate of Occupancy
1701 Wooden Valley Road, Napa, CA (APN 033-070-045)
Building Permit No. B98-00096

Dear Ms. Paton:


This is to follow up on our telephone conversation of Friday, April 26, 2013, regarding the above-referenced property.

On behalf of our clients, Frank and Karen Altamura, we would like to renew our September 19, 2012 request for issuance of a Temporary Certificate of Occupancy ("TCO"), a copy of which is attached hereto for your reference, to allow wine production in the above-ground winery facility located at 1701 Wooden Valley Road, Napa, California.

It is our understanding that, in order to comply with the Court's April 18, 2013 Order, you will coordinate and obtain approval from other necessary County departments and issue the TCO by close of business today.

If you have any questions or need any additional information, please contact the undersigned. Thank you in advance for your assistance.

Sincerely,

GAW VAN MALE

ROBYN B. CHRISTO, ESQ.

RBC:cjs
Enclosure
cc: Client



A Tradition of Stewardship
A Commitment to Service

Planning, Building & Environmental Services

1195 Third Street, Suite 210
Napa, CA 94559
www.countyofnapa.org

Planning, Building, Engineering & Conservation: (707) 253-4417
Fax: (707) 253-4336

Environmental Health: (707) 253-4471
Fax: (707) 253-4545

Hillary Gitelman
Director

April 29, 2013

Frank C. & Karen Lee Altamura
Carlice LLC.
1701 Wooden Valley Rd./P.O. Box 3209
Napa, CA. 94558-0320

90-DAY TCO APPROVAL

SUBJECT: Request of Temporary Occupancy – Altamura Winery
Assessors Parcel #033-070-045
Building Permit # B98-00096

Dear Mr. Altamura,

This letter responds to your formal request dated September 19, 2012 and April 29, 2013, relative to beneficial occupancy of the above-captioned complex.

As you know, the notification and receipt of conditional approvals from agencies involved in permit processing has been completed. **The conditional approval is specific to this request and does not grant nor infer approvals for any future phases and/or final Certificate of Occupancy.** Such actions will again be subject to review and approval of all agencies, departments and special districts based on your schedule for phased occupancy.

This conditional beneficial occupancy is specific to the use of **the ground floor (wine production only) of the Winery/Storage/Residential Building.** See attachment A identifying the specific area of use. The temporary occupancy and use of the subject building is hereby approved for 90 days from the date of this letter. Please be advised that this approval does not include the use or occupancy of the cave and does not allow for tours and tastings in the Winery/Storage/Residential Building. The continued beneficial use of the building shall be conditioned upon meeting and maintaining the requirements of the following agencies and entities:

1. Napa County Fire Department (707)967-1419
2. Environmental Management Department (707)253-4471
3. Public Works Department (707)253-4351


The above entities can and will enter upon the premises to determine compliance status and may, at their options, render a report to this office relative to phased occupancy of other portions of the subject structure and/or continued occupancy authorized by this action.

Page 1 of 2

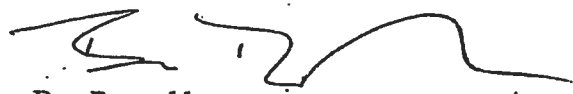
Planning Division (707) 253-4417	Building Division (707) 253-4417	Engineering & Conservation (707) 253-4417	Environmental Health (707) 253-4471	Parks & Open Space (707) 259-5933
-------------------------------------	-------------------------------------	--	--	--------------------------------------

Please advise this office of any changes, (physical or administrative), that may affect current status and/or future phased occupancy requests identified in your schedule.

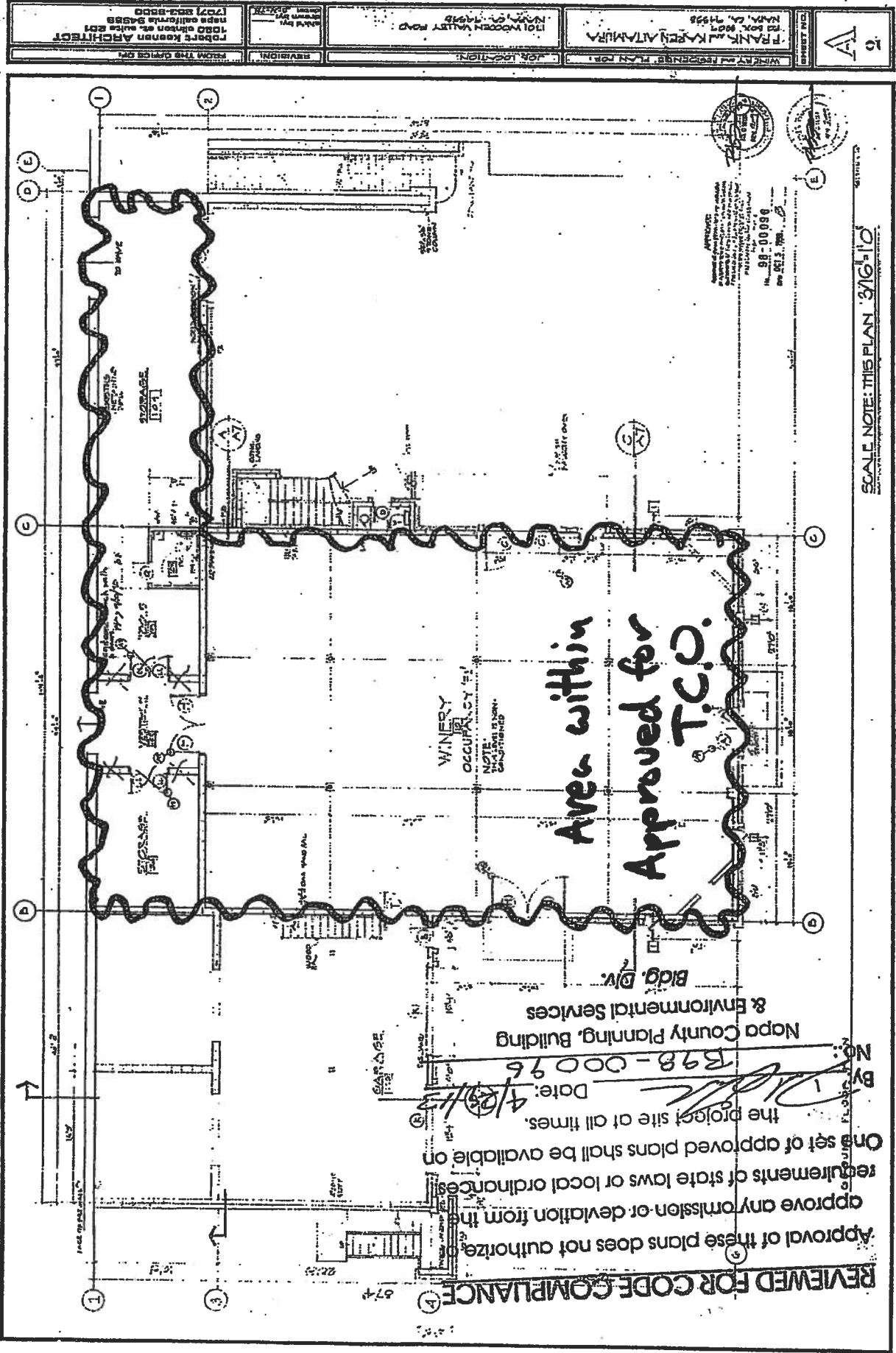
If you have questions in this regard, please call at your convenience.

Sincerely, 

For: Darrell Mayes, Chief Building Official


By: Ben Reynolds
Building Inspection Supervisor 4/29/2013

Attachment A - B98-00096



Altamira Winery - TCO Request - 4/29/13

ALTAMURA

VINEYARDS & WINERY

August 22, 2013.

To Napa County Planning, Building + Environmental.

We wish to Extend our TCO which was granted on April 29, 2013 in order to complete the work necessary for our Certificate of Occupancy Final. This TCO is for parcel # 033-070-045 and building permit # B98-00096. The last building dept. inspection was performed and passed on August 13, 2013.

Thank you.

Frank Altamura

Napa County Planning, Building
& Environmental Services

AUG 22 2013

RECEIVED



A Tradition of Stewardship
A Commitment to Service

Planning, Building & Environmental Services

1195 Third Street, Suite 210
Napa, CA 94559
www.countyofnapa.org

Pete Parkinson
Interim Director

November 13, 2013

Frank Altamura
P.O. Box 3209
Napa Valley, CA 94558

Conor J. Massey, Attorney
Gaw Van Male, Counselors at Law
1000 Main Street, Napa, CA 94559

Subject: Expired Temporary Certificate of Occupancy, 1700 Wooden Valley Road, Altamura Winery
B98 -00096, APN# 033-070-045

Dear Mr. Altamura:

On April 29, 2013, I granted a temporary certificate of occupancy (TCO) for the winery building located at 1700 Wooden Valley Road (Winery). The TCO was specific to the use of the ground floor of the Winery for production purposes only. The TCO was approved for ninety days (July 28, 2013).

On August 8, 2013, Deputy County Counsel Carrie Gallagher notified your previous attorney that the TCO expired. Ms. Gallagher requested that a written request be sent directly to me if you were planning to continue to use of the Winery for production purposes only.

On August 22, 2013, you provided a written request to extend the Winery's TCO. This request was routed to all divisions of the County's Planning, Building and Environmental Services Department. It is my understanding that an oral extension was granted for an additional ninety day extension of the TCO, from the date of its expiration.

The Winery's TCO expired on October 26, 2013. Pursuant to Napa County Code section 15.08.070(B) temporary occupancy of a structure shall be permitted for a maximum of one hundred and eighty days. Unfortunately, one hundred and eight days has passed and I am unable to grant any further extensions of a TCO for the Winery.

Therefore, you must immediately cease the use of the Winery until you receive a final certificate of occupancy. Please do not hesitate to contact me or Ms. Gallagher if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Darrell Mayes".

Darrell Mayes
Chief Building Official

Cc: Carrie Gallagher, Deputy County Counsel

Planning Division
(707) 253-4417

Building Division
(707) 253-4417

Engineering & Conservation
(707) 253-4417

Environmental Health
(707) 253-4471

Parks & Open Space
(707) 259-5933

Page 1 of 1

NAPA COUNTY BUILDING INSPECTION DIVISION
1195 THIRD ST., SUITE 210, NAPA CA 94559

CORRECTION NOTICE

Permit # 398 .00046 Address 1701 WOODEN VALLEY RD

I have this day inspected this structure and these premises and have found violations of County and/or State law governing same.

You are hereby notified that the listed violations are to be corrected:

- ☐ When corrections have been made, please call for a re-inspection at 253-4416.
- ☐ Re-inspection fee required to be paid prior to next inspection at the above address.
- ☐ Revisions are to be submitted to the Building Department.

PROGRESS INSPECTION FOR TANK ATTACHMENT
HOLE DRILLED (2) AT EACH LEG 4" - 4 1/2"
A 307 3/4" BOLTS ON SITE

PLAN SHOWS BOLTS TO BE EPOXYED
CONTRACTOR HAS SPECIAL INSPECTOR
SCHEDULED FOR 10 AM 4/26/13

HAVE SPECIAL INSPECTOR REPORT READY
FOR FINAL INSPECTION AND APPROVED
PLANS

4/26/13
Date

By: [Signature]
Building Inspector

(707)

299.1341
Phone

**THIS NOTICE IS REQUIRED TO BE USED ON ALL NON APPROVED
INSPECTIONS AND MUST REMAIN ON SITE WITH THE PERMIT AND
APPROVED PLANS AT ALL TIMES.**

NAPA COUNTY BUILDING INSPECTION DIVISION

1195 THIRD ST., SUITE 210, NAPA CA 94559

CORRECTION NOTICE

Permit # 398 00096 Address 1701 WOODEN VALLEY RD.

I have this day inspected this structure and these premises and have found violations of County and/or State law governing same.

You are hereby notified that the listed violations are to be corrected:

- ☐ When corrections have been made, please call for a re-inspection at 253-4416.
- ☐ Re-inspection fee required to be paid prior to next inspection at the above address.
- ☐ Revisions are to be submitted to the Building Department.

① MISSING BOLT AT 4th OPEN BEAM RAFTER
CONNECTION

② INSTALL SMOKE DETECTOR AT TOP
OF STAIRS/HALLWAY LEADING TO EAST WING

③ FOAM ALL PENETRATION THRU AT
TOP PLATES

④ FIRE CAULK AT PENETRATIONS AT
STAIRS AND BETWEEN SPACE AT BLOCKING

HAVE APP REVISION FOR OPEN BEAM CEILING
AT NEXT INSPECTION

O.K. TO INSULATE EAST WING ONLY
I CAN SEE ALL CORRECTION AT THAT
TIME.

11/15/12

Date

By:

MARUS JOHNSON
Building Inspector

707
299.1341
Phone

KEEP THIS NOTICE WITH PERMIT

NAPA COUNTY BUILDING INSPECTION DIVISION
1195 THIRD ST., SUITE 210, NAPA CA 94559

CORRECTION NOTICE

Permit # 393 ⁰⁰⁰⁹⁶ Address 1701 WOODEN VALLEY DR

I have this day inspected this structure and these premises and have found violations of County and/or State law governing same.

You are hereby notified that the listed violations are to be corrected:

- ☐ When corrections have been made, please call for a re-inspection at 253-4416.
- ☐ Re-inspection fee required to be paid prior to next inspection at the above address.
- ☐ Revisions are to be submitted to the Building Department.

① HAVE ELEC. DETAIL APPROVED

FOR THREE DECKS

ELECTRIC & FRAMING MATCH ON
SITE DETAIL COVER AT OWN RISK

INSPECTOR TOOK PHOTOS TO COMPARE
TO DETAIL

11/27/12
Date

By: 

Building Inspector

707

299.1341

Phone

KEEP THIS NOTICE WITH PERMIT



A Tradition of Stewardship
A Commitment to Service

County of Napa

1195 Third Street
Napa, CA 94559
www.countyofnapa.org

Permit History Report for Permit # B98-00096

Permit History

B98-00096 - { Building / Commercial / Commercial Dwelling / New }

Applied Date: 2/4/1998
Permit Status: Re-Issued as of 9/25/2012
Assigned Staff:

Permit Activity

E-Mail Contact

No Workflow Data Available

Permit Inspections

Second Pour: Correction Required on 03/19/1999
Slab Pour: Correction Required on 01/29/1999
Under Slab Plumbing: Failed on 05/01/2013
Under Slab Plumbing: Approved on 02/04/1999
Setbacks Forms: Approved on 11/19/1998
Setbacks Forms: Approved on 12/15/1998
Setbacks Forms: Approved on 01/07/2000
Block Grout: Approved on 08/03/2005
Block Grout: Approved on 02/25/1999
Block Grout: Approved on 03/08/1999
Block Grout: Approved on 04/19/1999
Block Grout: Approved on 12/03/1999
Footing Pour: Approved on 11/17/1999
Wall Reinforcement: Partial Approval on 11/12/1998
Wall Reinforcement: Partial Approval on 11/25/1998
Wall Reinforcement: Approved on 03/12/1999
Wall Reinforcement: Partial Approval on 04/13/1999
Wall Reinforcement: Approved on 04/19/1999
Wall Reinforcement: Approved on 12/02/1999
First Pour: Approved on 03/16/1999
Second Pour: Partial Approval on 03/19/1999
Second Pour: Partial Approval on 04/13/1999

Second Pour: Approved on 04/22/1999
Slab Pour: Approved on 01/29/1999
Slab Pour: Approved on 02/08/1999
Slab Pour: Approved on 10/22/2001
Roof Deck Nailing: Partial Approval on 09/30/1999
Roof Deck Nailing: Approved on 10/06/1999
Roof Deck Nailing: Approved on 02/09/2001
Roof Sheath Nailing: Partial Approval on 10/28/1999
Final Napa County Fire Dept: Approved on 09/04/2001
Footing Pour: Approved on 09/03/2002
Rough Structural Framing: Approved on 07/14/2003
Rough Structural Framing: Approved on 02/23/2005
Block Grout: Approved on 02/28/2005
Block Grout: Approved on 12/20/2005
Rough Electrical: Approved on 08/09/2007
Second Rough Plumbing: Approved on 08/09/2007
Consultation: Partial Approval on 02/28/2007
Under Floor Mechanical: Approved on 08/09/2007
Roof Deck Nailing: Approved on 12/21/2007
A8-Final Electrical: Failed on 12/12/2008
A8-Final Electrical: Partial Approval on 12/18/2008
F1-Final Environmental Mngmt: Passed on 10/12/2011
EM – Temp Occupancy Cert: Passed on 10/12/2011
PW – Temp Occupancy Cert: Failed on 10/18/2012
44- Rough Plumbing: Failed on 11/16/2012
45- Rough Electrical: Failed on 11/16/2012
46- Rough Mechanical: Failed on 11/16/2012
47- Rough Structural Framing: Failed on 11/16/2012
Bldg – Temp Occupancy Cert: Failed on 11/21/2012
47- Rough Structural Framing: Failed on 11/27/2012
1- Field Supervisor Consultation: Passed on 12/03/2012
Bldg – Temp Occupancy Cert: Failed on 04/02/2013
9- Footing Pour: Failed on 04/26/2013
Temp Occupancy Certificate: Approved on 04/29/2013
Fire – Temp Occupancy Cert: Passed on 04/29/2013
5- Special Inspection Report: Passed on 04/29/2013
Bldg – Temp Occupancy Cert: Passed on 04/29/2013
45- Rough Electrical: Passed on 07/30/2013
46- Rough Mechanical: Passed on 07/30/2013
47- Rough Structural Framing: Passed on 07/30/2013
71- Ceiling Insulation: Passed on 08/13/2013

34- Underfloor Insulation: Passed on 08/13/2013

83- Wallboard: Passed on 09/17/2013

83- Wallboard: Passed on 11/19/2013

For more information regarding inspections, email buildinspections@countyofnapa.org



A Tradition of Stewardship
A Commitment to Service

Michael T. Carlson
Geary, Shea, O'Donnell, Grattan & Mitchell, P.C.
37 Old Courthouse Square, 4th Floor
Santa Rosa, CA 95404

Planning, Building & Environmental Services

1195 Third Street, Suite 210
Napa, CA 94559
www.countyofnapa.org

Pete Parkinson
Interim Director

Re: Issuance of Certificate of Occupancy for Permit #B98-00096

Dear Mr. Carlson,

You have asked the County of Napa to issue a Certificate of Occupancy (CO) for a portion of the construction authorized under Building Permit # B98-00096, issued in 1998. This building permit authorizes construction of a single structure with a winery on the first floor and a residence on the second floor. Construction of the building shell and the winery is substantially complete. The residence portion of the building, which is contained entirely within the building shell, is not complete and currently at the framing stage based on the last inspection of the area. You have asked the County to issue a CO only for the winery portion of the building.

The County will not issue a CO for a portion of a building while other work authorized under the building permit remains uncompleted. If your client does not wish to complete construction of the residence at this time, his option is to modify Building Permit B98-00096 to delete that portion of the work. Revised plans would be required to show the changes. Once the permit is modified, County staff will inspect the building and issue a CO provided that the building conforms with the code and the approved plans. If your client wishes to complete construction of the residence in the future, a new building permit would be required. This subsequent permit would be subject to the codes in effect at the time the application is filed.

The decision of the Building Official in this matter may be appealed to the Board of Supervisors in accordance with the provisions of Chapter 2.88 of the Napa County Code. However, due to the recent changes to the Code, this type of decision will be no longer be appealable to the Board of Supervisors once the changes to the Code become effective on January 16, 2014. Failure to file such an appeal on or before January 15, 2014, shall constitute an irrevocable waiver of the right to an administrative hearing and final adjudication of the Building Official's order.

Sincerely,

A handwritten signature in dark ink, appearing to read "Darrell Mayes".

Darrell Mayes
Chief Building Official
Planning, Building and Environmental Services
1195 Third Street, Suite 210
Napa, CA 94559

Planning Division
(707) 253-4417

Building Division
(707) 253-4417

Engineering & Conservation
(707) 253-4417

Environmental Health
(707) 253-4471

Parks & Open Space
(707) 259-5933

Case No: 26-61207

Napa County Superior Court

PROOF OF SERVICE

I am employed in the County of Sonoma, State of California. I am over the age of 18 years and not a party to the within action. My business address is Geary, Shea, O'Donnell, Grattan & Mitchell, 37 Old Courthouse Square, Fourth Floor, Santa Rosa, CA 95404.

On February 11, 2014, I served the attached:

**DECLARATION OF FRANK C. ALTAMURA IN SUPPORT OF MOTION TO DISSOLVE
PRELIMINARY INJUNCTION OR IN THE ALTERNATIVE
MODIFY PRELIMINARY INJUNCTION**

on the parties to this action by placing a true copy thereof in a sealed envelope, addressed as follows:

Office of County Counsel Minh C. Tran, County Counsel Carrie R. Gallagher, Deputy 1195 Third Street, Suite 301 Napa, CA 94559	Telephone: (707) 253-4521 Attorneys for Plaintiff Napa County
---	--

/X/ (BY MAIL) I placed a copy of the above-described document in sealed envelope, with postage thereon fully prepared for First-Class Mail, addressed to the parties as set forth above, for collection and mailing at Santa Rosa, California, following ordinary business practices. I am readily familiar with the practice of Geary, Shea, O'Donnell, Grattan & Mitchell for processing of correspondence, said practice being that in the ordinary course of business, correspondence is deposited in the United States Postal Service the same day as it is placed for processing.

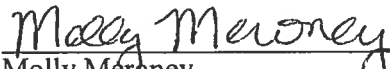
/ / (BY E-MAIL) I caused an electronic copy of the above-described document to be transmitted by e-mail to the address(es) known by or represented to me to be the receiving e-mail(s) of the parties noted above.

/ / (BY OVERNIGHT DELIVERY, PURSUANT TO CCP '1013(c)) I placed such sealed envelope for collection and mailing by overnight delivery at Santa Rosa, California, within the ordinary business practices of Geary, Shea, O'Donnell, Grattan & Mitchell. I am readily familiar with the practices of Geary, Shea, O'Donnell, Grattan & Mitchell for processing overnight correspondence, said practice being that in the ordinary course of business, correspondence is either picked up by or delivered to the delivery company the same day as it is placed for processing.

/ / (BY FACSIMILE) I caused the above-described document to be transmitted, pursuant to Rule 2008, by facsimile machine (which complies with Rule 2003(3)) to the parties at the number(s) indicated after the address(es) noted above. The transmission was reported as complete and without error.

/ / (BY PERSONAL SERVICE) I caused such envelope to be delivered by hand to the parties at the address(es) noted above.

I declare under penalty of perjury, under the laws of the State of California, that the foregoing is true and correct. Executed at Santa Rosa, California, on February 11, 2014.


Molly Meroney

11150-001