

\*\*\*\* Ms. Gabriele McAllister  
2010 376 E 18th St. # C  
\*\*\*\* Costa Mesa, CA 92627

VI. 3

ZA-89-25 & ZA-92-10

Aug 3rd, 2010

Received

City of Costa Mesa  
Development Services Department

AUG 4 2010

To: City of Costa Mesa  
c/o Mel Lee / Senior Planner

Mr. Lee,

I am writing you this letter regarding Garcia's Recycling at W. 19th St. I have been taking my recycle there for about 2 years. The place is kept very clean and the personel is extremely helpful. Since I am 60 years old and have severe arthritis, it is very refreshing to find a company that will help to unload my car. They tried to improve their place by putting in artifical grass, which by the way looked real, and you asked them to take it out. Why?

Unfortunately with people walking and unloading on the real grass, it doesn't last that long. Also they supply soap and water, so people are able to wash their hands.

Again unfortunately every recycling place does have homeless people around. But that's not Garcia's fault.

In conclusion, I don't really see any reason why you would want to close such a good place.

If you should have any questions, please feel free to contact me at 949-646-9611.

Sincerely,

Gabriel Mc Allister

CC : Miles-Chen Law Group - Patricia Chen  
Garcia's Recycle

VI.3  
ZA-89-254 ZA-92-10

# MILES • CHEN LAW GROUP

9911 Irvine Center Drive, Suite 150 • Irvine, CA 92618  
Phone: 949.788.1425 • Fax (949) 788-1991.

A PROFESSIONAL CORPORATION  
LAND USE • ENVIRONMENT • ENTITLEMENT

August 6, 2010

VIA EMAIL (mlee@ci.costa-mesa.ca.us)

Planning Commission  
City of Costa Mesa  
c/o Mr. Mel Lee  
Senior Planner  
P.O. Box 1200  
77 Fair Drive  
Costa Mesa, CA 92626-1200

Re: Conditional Use Permit ZA-92-10, 739 West 19<sup>th</sup> Street, Costa Mesa, California

Dear Commissioners:

First of all, we would like to thank you for agreeing to continue the hearing on the above-referenced matter to August 9, 2010. We have taken the time to thoroughly investigate the matter and to speak to CalRecycle as we indicated. Per Mel Lee's request, we provided him with an update on our public outreach efforts on July 27, 2010 via email (which is incorporated by reference). We have also summarized these efforts below. Moreover, in addition to the issues we raised in our July 12, 2010 letter to the Planning Commission (which is incorporated by reference), we will discuss more issues below which should give this Commission serious pause in moving forward with any revocation proceeding.

## 1. Public Outreach

On July 26, 2010, we met with the community members to discuss the operation of Garcia Recycling Center & Metals, Inc. ("Garcia Recycling") and to determine how Garcia Recycling could improve its operations to be a good neighbor to the community. The individuals who attended the meeting expressed overwhelming support of Garcia Recycling and noted that it is the best recycling facility in the area because it is an efficient operation so the wait time is much less than other facilities, the employees are nice and go out of their way to assist customers, and Garcia Recycling is honest and does not take advantage of its customers. One woman said she specifically drives from Newport Beach to Garcia Recycling because she thinks so highly of the service and she brings her kids to teach them about recycling. Some individuals indicated that they rely on Garcia Recycling for their income. One homeless man said if it weren't for Garcia Recycling, he did not know what he would do. Similarly, another woman said that she had lost her job a few years ago and is dependent on Garcia Recycling for income. Finally, one person aptly pointed out that because of Garcia Recycling, trash is being picked up in the neighborhood and being recycled and that the trash would otherwise be going to landfills.

We asked the attendees how Garcia Recycling could better improve its operations, particularly visually since that was the predominant concern raised at the last Planning Commission meeting. Many individuals thought it was unfair that Garcia Recycling was being blamed for drunkards loitering in the area when there is a liquor store and soup kitchen for the homeless across the street. We also got suggestions to use synthetic grass instead of sod which gets trampled over time, and to paint a mural on the side of the container. We explained that Garcia Recycling did use synthetic grass in the past but the City asked them to remove it and that the City would unlikely be willing to approve a mural.

The most poignant comment came from one of the business owners who opined that the City simply does not like the look of Garcia Recycling and the shopping center because it caters to the Latino community. Costa Mesa used to be known as "Goat Hill" and it was where the Latino community gathered. This shopping center serves as the same kind of gathering place for the Latino community today, yet she believes that the City would like to shut it down beginning with Garcia Recycling.

Because we had expected more people to attend, including those who oppose Garcia Recycling's operations, we decided to specifically reach out to those parties who signed the petition submitted to the City. We sent out a letter to those parties on July 27, 2010 to give them an opportunity to voice their concerns to us so that we can address their issues. *See Exhibit A. To date, we have not received any calls.*

2. **Revocation of Garcia Recycling's Conditional Use Permit is Unjustified and Would Amount to an Abuse of the Planning Commission's Discretion**

The seminal decision on revocation and modification of use permits ironically involved the City of Costa Mesa - *Goat Hill Tavern v. City of Costa Mesa*, 6 Cal.App.4th 1519 (1992). This decision involved complaints from residents abutting the parking lot of the bar about noise, trash, and drunken behavior during late hours of operation. *Id.* at 1524. The Court of Appeal held that a use permit, once issued, becomes a fundamental vested right that cannot be impaired absent a showing of either a failure by the permittee to comply with the reasonable conditions of the permit or a compelling public necessity. (*Id.* at 1530.)

"Once a use permit has been properly issued the power of a municipality to revoke it is limited. Of course, if the permittee does nothing beyond obtaining the permit it may be revoked. Where a permit has been properly obtained and in reliance thereon the permittee has incurred material expense, he acquires a vested property right to the protection of which he is entitled."

*Id.* Furthermore,

"When a permittee has acquired such a vested right it may be revoked if the permittee fails to comply with reasonable terms or conditions expressed in the permit granted [citations] or if there is a compelling public necessity. [Citations.] [P] A compelling public necessity warranting the revocation of a use permit for a lawful business may exist were the conduct of that business constitutes a nuisance."

*Id.* (quoting *O'Hagen v. Bd. Of Zoning Adjustment*, 19 Cal.App.3d 151, 158 (1971)).

In *Goat Hill Tavern*, the City of Costa Mesa provided extensive evidence through a staff report that "summarized 19 reported police incidents occurring at the tavern between August 1990 and November 1990. They included incidents in the parking lot and complaints the tavern exceeded its capacity and its patrons were drunk in public." *Id.* at 1524-25. Notwithstanding the large number of incidents over a four month period, the City of Costa Mesa's preliminary action of limiting the tavern's hours of operation was stayed by the trial court and ultimately the Court of Appeal affirmed the trial court's grant of a writ of mandate against the City. (*Id.* at 1523, 1532.)

The grant of the writ of mandate against the City of Costa Mesa was largely based on the type of evidence presented at hearing:

- 1) Several witnesses wrote or testified favorably to Goat Hill Tavern.
- 2) Police records showing the number of incidents reported at the tavern were less than at most other bars and coffee shops in the vicinity.
- 3) No showing to distinguish complaints about Goat Hill Tavern from other possible causes, including other bars and other pedestrians that frequented the area.

In the present case, the conditional use permit is a fundamental vested right held by Garcia Recycling. There is no dispute that the permit was properly issued by the City and Garcia Recycling has relied on this permit for its 20 years of operation. As such, the power of the City to revoke this permit is limited. *See id* at 1530.

According to the Costa Mesa Municipal Code ("CMMC"):

"the planning commission may require the modification or revocation of any planning application and/or pursue other legal remedies as may be deemed appropriate by the city attorney, if the planning commission finds that the use as operated or maintained:

- a. Constitutes a public nuisance as defined in State Civil Code Sections 3479 and 3480; or
- b. Does not comply with the conditions of approval."

CMMC § 13-29(o)(1). California Civil Code Section 3479 states:

"Anything which is injurious to health, including, but not limited to, the illegal sale of controlled substances, or is indecent or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin, or any public park, square, street, or highway, is a nuisance."

Civil Code Section 3480 states:

"A public nuisance is one which affects at the same time an entire community or neighborhood, or any considerable number of persons, although the extent of the annoyance or damage inflicted upon individuals may be unequal."

The City appears to be considering revoking Garcia Recycling's permit because its operations may be deemed a public nuisance:

"Specifically, the use is not being operated in a manner deemed to be compatible with surrounding properties and uses, the use creates a negative visual impact due to excessive signage and lack of property maintenance, a significant degree of City staff resources has been devoted to the use as a result of complaints related to the use and continual enforcement of noise and property maintenance issues, and issues related to noise, odors, transients, property maintenance, etc. do not appear to be prevalent at other recycling facilities in the City as they are at this location."

Staff Report at 12.

*We believe that the City cannot make a nuisance determination in this case.* First of all, the City's findings on their face do not meet the definition of a nuisance as set forth in Civil Code Section 3479 and 3480. Garcia's Recycling's operations are not injurious to health, it is not an obstruction to the free use of property, nor does it affect an entire community or neighborhood. The purported negative visual impact is based on "excessive signage and lack of property maintenance" which hardly arises to the level of being "indecent or offensive to the senses," particularly where a vested interest is at stake.

Aside from the letter petition signed by approximately 35 people citing that the facility's presence "[b]ring (sic) in transients; drunkard asleep all around, urinating, trash . . . odors, unkept (sic) areas, unnecessary noise," there is little in the record to support the City's findings. As far as we can tell, only two complaints were documented in the last year or so. Both complaints allege excessive noise.<sup>1</sup> The City of Costa Mesa, Development Services Department investigated one of the complaints and visited Garcia Recycling seven times and noted "NO VIOLATION OBSERVED" each time and closed the case on July 17, 2009. See Exhibit B. Contrast the significant evidence of complaints that was presented by the City in *Goat Hill Tavern*, where the court still found that the City's decision to deny renewal of applicant's permit was not supported by the evidence. See *Goat Hill Tavern*, 6 Cal.App.4<sup>th</sup> at 1525.

As to the transients cited by the City, the City has made no showing to distinguish complaints about Garcia Recycling from other possible causes such as the liquor store and soup kitchen across the street from the shopping center. See *Goat Hill Tavern*, 6 Cal.App.4<sup>th</sup> at 1531. Thus, pursuant to *Goat Hill Tavern*, the City simply has failed to meet its burden to show how revocation is justified.

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<sup>1</sup> The three complaint letters from residents cited by the City date back to October and November of 1992, prior to Garcia Recycling's relocation from the back of the parking lot to the front. See Attachment 4 to Planning Commission Agenda Report dated July 1, 2010. Also included is a letter from Smart & Final dated June 6, 2000, over 10 years ago. Smart & Final has subsequently communicated with the City regarding Garcia Recycling as discussed below.

Moreover, we hereby submit the following additional evidence to refute the City's potential nuisance determination. Attached as Exhibits C, D, and E are pictures of the facility from the street.<sup>2</sup> First of all, the signage is barely visible. *See* Exhibit C. Secondly, the operation is barely visible from the street. *See* Exhibit D. Furthermore, as discussed above, there is a soup kitchen across the street which serves individuals in need. *See* Exhibits F and G. As to the noise and odors, the people most directly impacted by the operations, the business owners in the shopping center, have opined that they do not find Garcia Recycling's operation to be offensive. *See* Exhibit H. Victor Bonilla, the part owner of the shopping center and property manager also indicated that he has not received any complaints about Garcia Recycling. *See* Exhibit I. As discussed above, we have performed public outreach to those individuals who signed the petition and have not received any responses to date.

Finally, we hereby present a petition with *over 500 signatures* in support of Garcia Recycling by the community members who frequent the shopping center and Garcia Recycling. *See* Exhibits J and K. These are the individuals who will be most directly affected by the decision of the Planning Commission and *their voices cannot be ignored*. The Commission simply cannot revoke Garcia Recycling's permit to the detriment of the community because a few individuals who "don't like the look" of Garcia Recycling's operations purportedly complained to the City.

**3. Revocation of the Permit is Subject to the California Environmental Quality Act**

The California Environmental Quality Act ("CEQA") defines a "project" as "an activity which may cause either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment." Pub. Res. Code § 21065. The CEQA Guidelines further define a "project" as "the whole of an action, which has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment ...." CEQA Guidelines § 15378(a). The revocation of Garcia Recycling's permit would constitute a "project" under CEQA because it has a potential for resulting in a physical change in the environment in that the recycling of beverage containers may be severely reduced thereby resulting in additional tonnage of trash in landfills (which would result in additional vehicle trips for garbage trucks and more greenhouse gas emissions) and an increase in trash on the streets.

It is undisputed that Garcia Recycling handles more than double the amount of recyclable beverage containers than any other recycling operation in Costa Mesa. While the City may speculate that the recyclers would simply take their materials to other recyclers, based on the comments we received at the neighborhood meeting, this would not be the case. Many of Garcia Recycling's customers walk to the facility (as evidenced by the pictures we previously submitted) and would not be able to walk to the other recyclers. Moreover, Garcia Recycling is the only facility that is open on Mondays when the volume of material is the heaviest. Garcia

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<sup>2</sup> During the July 12, 2010 Planning Commission meeting, a commentator and the Commissioners extensively discussed the visual impact from "driving by." As such, we presume that this vantage is the focus of the visual impact.

Recycling is the largest and most efficient operation (as we learned from our neighborhood meeting, people come to Garcia instead of other facilities because of its efficiency). The other recyclers simply cannot handle the volume of materials that Garcia Recycling handles and as such, it is inevitable that the total volume of beverage containers recycled in the City would decrease and result in an environmental impact. This impact must be analyzed under CEQA.

Although the Commission may argue that the revocation of the permit is exempt under the categorical exemption set forth in CEQA Guidelines Section 15321, an exception to the categorical exemption would apply here, i.e., there is a reasonable possibility of significant effect due to unusual circumstances. See CEQA Guidelines Section 15300.2(c). "Unusual circumstance" within the meaning of the exception is whether "the circumstances of a particular project (i) differ from the general circumstances of projects covered by a particular categorical exemption, and (ii) those circumstances create an environmental risk that does not exist for the general class of exempt projects." *Azusa Land Reclamation Co. v. Main San Gabriel Basin Watermaster*, 52 Cal.App.4<sup>th</sup> 1165, 1207 (1997); see also *Communities for a Better Environment v. California Resources Agency*, 103 Cal.App.4<sup>th</sup> 98, 129 (2002).

This is not a typical case where the Commission is revoking the conditional use permit of a bar or restaurant which would not result in significant impacts to the environment. The Commission is considering revoking the permit of a recycling facility which diverts a significant amount of trash from the landfills. This creates an environmental risk that does not exist for the general class of projects under this exemption. Indeed, the California Beverage Container Recycling and Litter Reduction Act aka "The Bottle Bill" (AB 2020) explicitly allows the Department to penalize cities that "prohibit[] the siting of a supermarket site" or "**cause[] a supermarket site to close its business.**" Pub. Res. Code § 14581(a)(5)(F) (emphasis added). We cannot conceive of any other type of use where a city may be subject to a penalty where a conditional use permit is revoked. Clearly, in passing the Bottle Bill, the Legislature felt that cities should subrogate their land use interest for the benefit of recycling:

"It is the intent of the Legislature to make redemption and recycling convenient to consumers, and the Legislature hereby urges cities and counties, when exercising their zoning authority, to act favorably on the siting of multimaterial recycling centers, reverse vending machines, mobile recycling units, or other types of recycling opportunities, as necessary for consumer convenience, and the overall success of litter abatement and beverage container recycling in the state."

Pub. Res. Code § 14501(e).

As discussed above, because Garcia Recycling handles such a high volume of recycled beverage containers, there is certainly a reasonable possibility that closure of the facility would result in a significant effect on the environment. Thus, the exception to the categorical exemption would apply.

4. **There is no Reason to Relocate Garcia Recycling to an Alternate Site**

We have previously indicated to you that we would work with the City and the Division of Recycling in the Department of Resources Recycling and Recovery (the "Department") to determine whether moving the facility to another site or adding another facility would be in the best interest of the community and the City. Based on our discussions with the community, business owners in the shopping center and Walt Simmons at CalRecycle, we believe that Garcia Recycling is located in the optimum location to serve the community with the least amount of impact to the surrounding environment. Garcia Recycling has been in this location since 1992. It is an integral part of the community. Even Smart & Final recognizes that "it is obvious that a [recycling] center at this location is an absolute necessity" and that "removing [it] would not be good for local businesses." See Attachment 3 to July 28, 2010 Planning Commission Agenda Report. The City asked Garcia Recycling to move to its present location in the parking lot in 1992 because it, too, recognized that this location was optimal. It does not abut residences, nor does it disrupt businesses since Lion's Den, the business closest to Garcia Recycling is only open in the evening. Moving the operation to the back of parking lot as Smart & Final suggests would more directly impact the nearby residences. Thus, Garcia Recycling strongly believes it should not relocate its operations within the parking lot.

5. **Garcia Recycling Serves Three Convenience Zones, Two of Which Garcia Recycling Serves Exclusively**

As detailed in our July 12, 2010 submittal to the Commission, Garcia Recycling is the sole recycling facility serving two convenience zones. The July 28, 2010 Agenda Report asserts that revoking Garcia Recycling's conditional use permit "would not result in an unserved convenience zone because the area would continue to be served by the existing recycling facility at Von's Market." The report cites to CalRecycle's website FAQ page (which is not a binding guidance document) to support this contention notwithstanding the clear language of the statute:

*"Except as otherwise provided in this chapter, there shall be at least one certified recycling center or location within every convenience zone that accepts and pays the refund value, if any, at one location for all types of empty beverage containers and is open for business during at least 30 hours per week with a minimum of five hours of operation occurring during periods other than from Monday to Friday, from 9 a.m. to 5 p.m."*

Pub. Res. Code § 14571(a) (emphasis added). It is undisputed that Garcia Recycling is the only recycling facility located in the convenience zones for Smart & Final and El Metate. As such, pursuant to the Bottle Bill, if Garcia Recycling were to cease operations, it appears that Smart & Final and El Metate would either need to redeem all empty beverage containers or pay to the Department \$100 per day until a recycling location is established. See Pub. Res. Code § 14571.6.

In sum, we believe that Garcia Recycling operates a clean and efficient recycling facility and that the community is very much in support of its continued operations. It seems that there

Planning Commission  
August 6, 2010  
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are a few individuals and Commissioners who may not like the "look" of Garcia Recycling notwithstanding the undisputed benefit Garcia Recycling confers on the community including:

- Collecting and facilitating the recycling of beverage containers;
- Diverting trash from landfills;
- Helping to keep the streets in the community clean by providing an incentive for people to pick up trash, and;
- Providing income to individuals;

The fact that these individuals are offended by the "look" of Garcia Recycling's operations simply does not justify revoking its conditional use permit.

Garcia Recycling will continue to work together with the City to avoid and minimize any potential impact to the surrounding environment that may be caused by its operations. As you can see, there is a long history of Garcia Recycling addressing the concerns raised by City staff. Most recently, Garcia Recycling installed additional landscaping to improve the aesthetics of the facility. See Exhibit L. We request that the Commission allow staff and Garcia Recycling to work out additional mitigation measures that are acceptable not only to Garcia Recycling and the City, but also to the property owner, neighbors, and Smart & Final. For example, we would like to show the City how staging a truck has a far lower impact on the surroundings than having to load and unload a container 2-3 times a day. Furthermore, while Garcia Recycling is open to constructing a wrought iron fence along the easterly property line, the owners of the shopping center are not necessarily supportive of this. We believe these issues must be discussed prior to having conditions imposed on Garcia Recycling.

We appreciate your consideration on this matter and look forward to answering any questions at the hearing.

Sincerely,



Patricia J. Chen

cc: Fred N. Canlas, CPA (via email)  
Jesus Garcia (via email)  
Rebecca Robins (via email)  
David Rodriguez (via email)

EXHIBIT A

# MILES • CHEN LAW GROUP

9911 Irvine Center Drive, Suite 150 • Irvine, CA 92618

Phone: 949.788.1425 • Fax (949) 788-1991

A PROFESSIONAL CORPORATION  
LAND USE • ENVIRONMENT • ENTITLEMENT

July 27, 2010

Opponents of Garcia Recycling

Re: Garcia Recycling Center

Dear Citizens:

We represent Garcia Recycling Center located in the parking lot of the El Toro Market at 739 W. 19<sup>th</sup> Street, Costa Mesa. Yesterday, July 26, 2010, we held a neighborhood meeting at Costa Brava Restaurant, where we discussed Garcia Recycling and the Planning Commission's perceived complaints about the facility. The businesses in the shopping center had distributed flyers about the meeting for the last week and over 20 individuals attended the meeting. We received overwhelming support for Garcia Recycling.

We understand that you signed a petition indicating your opposition to Garcia Recycling's operation at the site. In the event you did not receive a flyer informing you of the meeting, we wanted to give you an opportunity to voice your concerns to Garcia Recycling so that we can try to address your issues. Please feel free to email me at [pchen@miles-chen.com](mailto:pchen@miles-chen.com) or call me at (213) 804-8000 to discuss your specific issues.

Sincerely,



Patricia J. Chen

**ADDRESSEES**

Maria Martinez  
713 Center Street  
Costa Mesa, CA 92627

Fred Souter  
Souter Family Trust  
703 Center Street  
Costa Mesa, CA 92627

Makayla Knalson  
711 Weelo Dr.  
Costa Mesa, CA 92627

Alexandra Sanson  
732 Weelo  
Costa Mesa, CA 92627

James Wolf  
702 Center Street  
Costa Mesa, CA 92627

Resident  
712 Center Street  
Costa Mesa, CA 92627

Resident  
724 Center Street  
Costa Mesa, CA 92627

Resident  
411 N. Cedar Street  
Orange, CA 92868

Residents  
724 Center Street  
Costa Mesa, CA 92627

Steven Cha  
720 Center Street  
Costa Mesa, CA 92627

Resident  
729 Center Street  
Costa Mesa, CA 92627

Carmona Residence  
752 Center Street  
Costa Mesa, CA 92627

Joyce P. Thomas  
762 Center Street  
Costa Mesa, CA 92627

Sara Barragan  
756 Center Street  
Costa Mesa, CA 92627

Monica Van Devsen  
Mark Haven  
757 Center Street  
Costa Mesa, CA 92627

Resident  
763 Center Street  
Costa Mesa, CA 92627

Ashley Barn  
769 Center Street  
Costa Mesa, CA 92627

Alfonso Salazar  
777 Center Street  
Costa Mesa, CA 92627

Resident  
785 Center Street  
Costa Mesa, CA 92627

Resident  
788 Center Street  
Costa Mesa, CA 92627

Resident  
756 W. 19<sup>th</sup> Street  
Costa Mesa, CA 92627

Peggy Krugen  
758 W. 19<sup>th</sup> Street  
Costa Mesa, CA 92627

Stephen Kent  
973 Oak Street  
Costa Mesa, CA 92627

Resident  
789 W. 19<sup>th</sup> Street  
Costa Mesa, CA 92627

Resident  
742 Weelo Dr.  
Costa Mesa, CA 92627

Yoshiko Tanaka  
1846 Wallace Ave.  
Costa Mesa, CA 92627

Resident  
735 Center Street  
Costa Mesa, CA 92627

Resident  
1837 Wallace Ave.  
Costa Mesa, CA 92627

EXHIBIT B

# CDBG HOUSING COMPLAINT INVESTIGATION

City of Costa Mesa, Development Services Department

Assigned to: TS

Case No.: CD-09-025

## COMPLAINT LOCATION

Complaint Address: 719 W 19TH

Property Owner: \_\_\_\_\_ Phone: \_\_\_\_\_

Address: \_\_\_\_\_

## COMPLAINANT

Name: [REDACTED] Phone: \_\_\_\_\_

Address: \_\_\_\_\_

Complaint Received By: TS  Hotline Date: 06/29/09 Time: \_\_\_\_\_

**Describe Complaint:**  
RP ALLEGES EXCESSIVE NOISE FROM RECYCLING CENTER ON THE OTHER SIDE OF HIS HOME.

1. Building Exterior Inspection: Violation Observed Yes  No  If Yes, Detail Action Below
2. Building Interior Inspection: Yes  No  If Yes, Detail Action Below
3. Referred to HCD: Yes  No  If Yes, Date: \_\_\_\_\_

*Numbers 1 and 2 must be completed - no exceptions!*

**Action:**  
06/29/09 SPOKE WITH RP AT LENGTH AND ASSURED HIM I WOULD INVESTIGATE. TS  
06/29/09 NO VIOLATION OBSERVED. TS  
06/30/09 NO VIOLATION OBSERVED. TS  
07/01/09 NO VIOLATION OBSERVED. TS  
07/02/09 NO VIOLATIONS HEARD OR OBSERVED. TS  
07/06/09 NO VIOLATIONS. TS  
07/09/09 NO VIOLATIONS HEARD OR OBSERVED. TS  
07/14/09 NO VIOLATIONS HEARD OR OBSERVED. CLOSE CASE. TS

162  
FOR INTERNAL USE ONLY

EXHIBIT C



184

EXHIBIT D

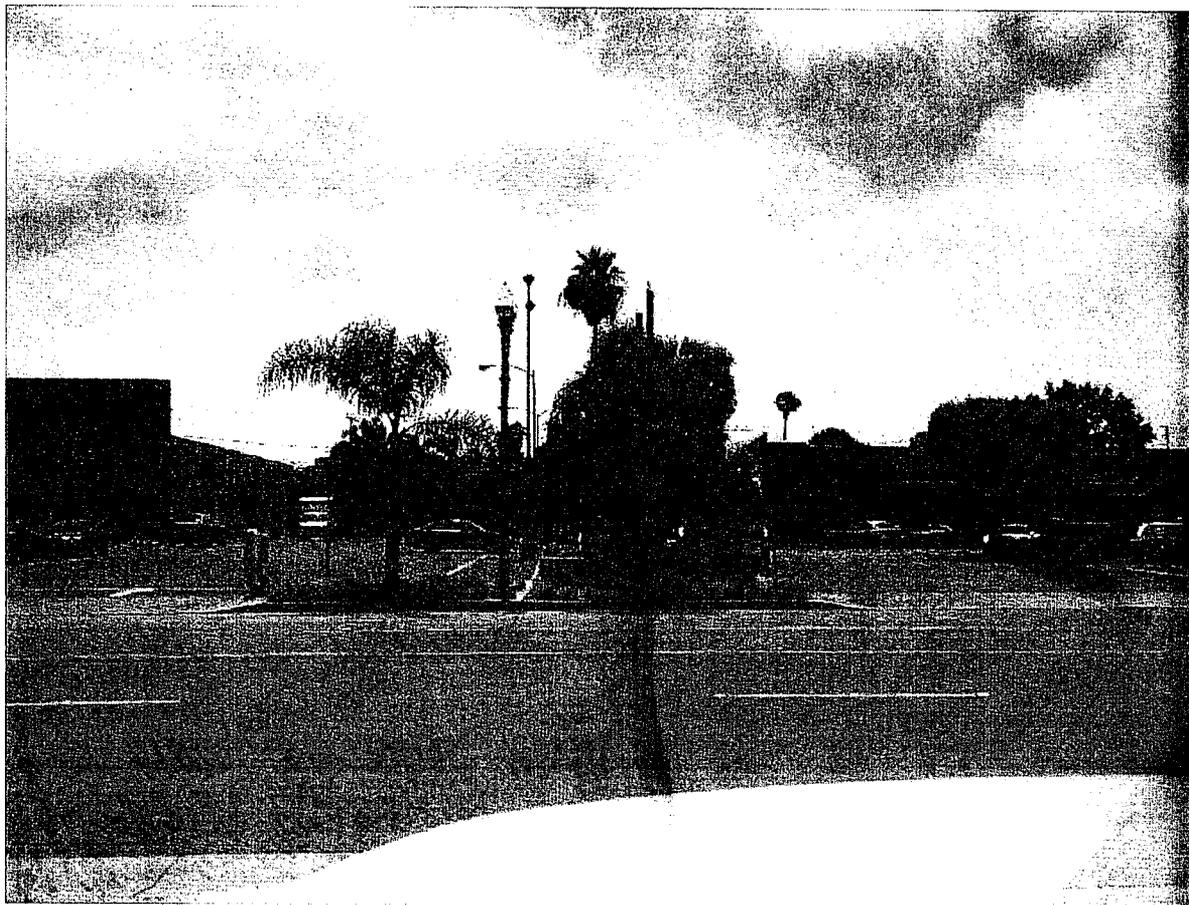




EXHIBIT F

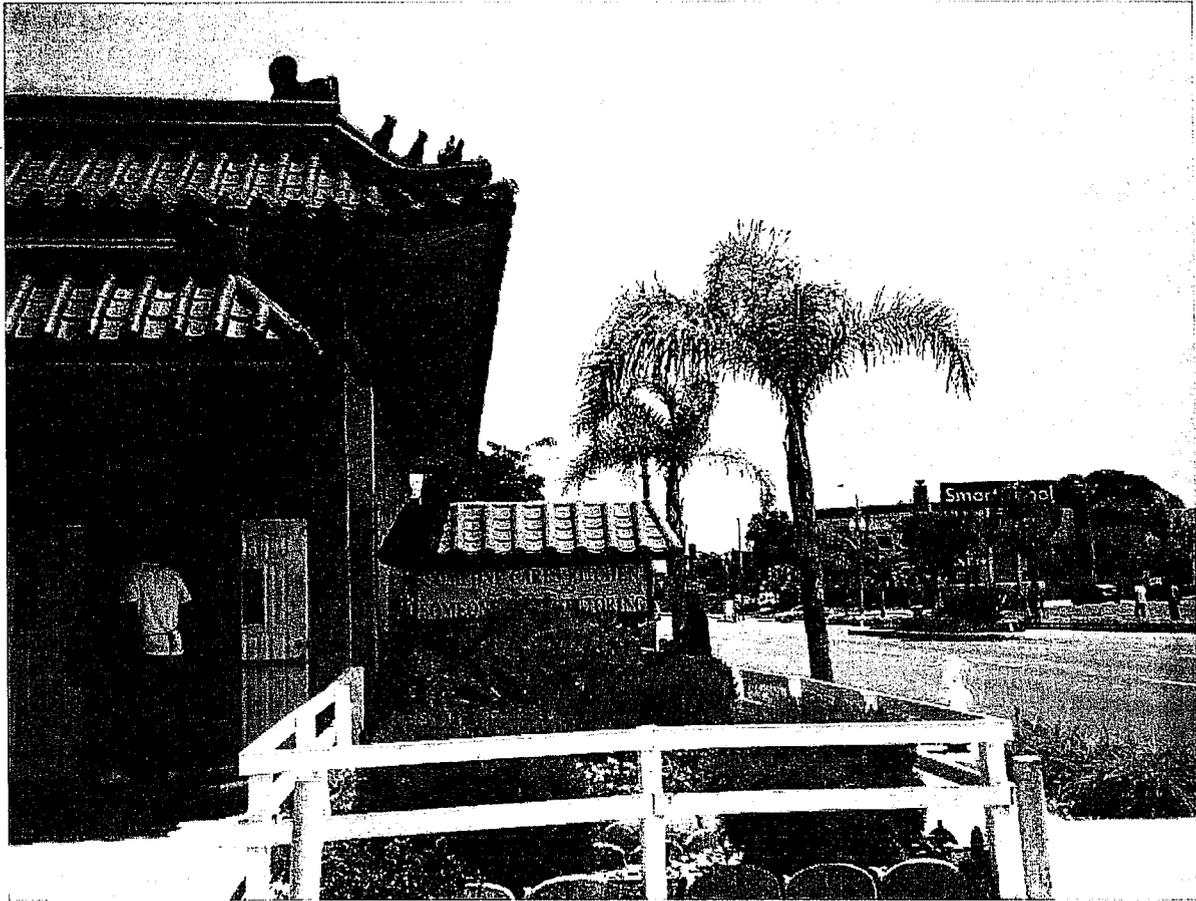


EXHIBIT G



192

EXHIBIT H

Victor M. Bonilla  
El Toro Bravo Market  
739 W. 19<sup>th</sup> Street  
Costa Mesa, California 92627  
(949)646-4266

July 21, 2010

Planning Commission  
City of Costa Mesa  
c/o Mr. Mel Lee  
Senior Planner  
P.O. Box 1200  
77 Fair Drive  
California, CA 92626-1200

Re: Garcia Recycling

Dear Commissioners:

I am the owner of El Toro Market, El Toro Bravo Tortilla Factory, and Costa Brava Restaurant in the shopping center located at 738 W. 19<sup>th</sup> Street in Costa Mesa. I am also a part owner of the shopping center and the property manager. I have been a part owner and the property manager for over 30 years. For the last 20 years, Garcia Recycling Center has been a tenant and has operated its mobile recycling facility in our parking lot. During the 20 years, I have not received any complaints about Garcia Recycling's operations. As such, I was very surprised to learn that the Planning Commission decided to review Garcia Recycling's conditional use permit with the intent of potentially revoking its permit.

As both the owner of El Toro Bravo Market and the shopping center, I consider Garcia Recycling an integral part of our community. I know all the tenants and neighbors and we all view Garcia Recycling as providing a very necessary service to the community. Many of my customers use Garcia Recycling and depend on its services for extra income, particularly in this tough economic climate. It is no wonder that Garcia Recycling is so busy.

I have observed Garcia Recycling's activities and I have determined that it currently is in the optimum spot in our parking lot. Garcia Recycling does not disrupt any of the businesses in the center. Moreover, the operation is not visible from the street. I attended the Planning Commission meeting on July 12, 2010 and heard an individual complain about seeing Garcia Recycling's "ugly" operations as he drives by, but I respectfully disagree. All that is visible from the street is the front of the truck and the back of an unmarked container, and there is even a tree blocking this view.

It is clear to me that there are residents in Costa Mesa who simply do not like the look of this shopping center because it primarily serves the Hispanic community.

As the owner of El Toro Bravo Market, I need Garcia Recycling because it is the only recycling facility in our convenience zone. As such, if it is shut down, we would be required to redeem beverage containers (which we cannot do due to the high volume) or pay \$100 per day to the State. ***We simply cannot afford to pay \$100 per day – this would cause my business severe financial hardship.***

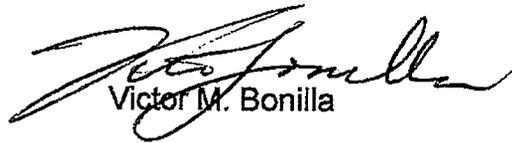
I understand that from reading the complaint letters received by the City (which was given to me at the July 12, 2010 meeting) that some residents are saying that Garcia Recycling bring in homeless people who are drunk and urinate everywhere, trash, odors, unkempt areas, and unnecessary noise. As the property manager who monitors the shopping center every day, I strongly disagree. While there is an occasional homeless person in the shopping center, these individuals are not necessarily brought in by Garcia Recycling. There is a homeless soup kitchen across the street, Someone Cares Kitchen, which serves the homeless. I (or my employees) usually ask them to move along if they have no business in our shopping center. However, we do not turn away such individuals if they are customers, including if they are selling beverage containers to Garcia Recycling. To do so, would be wrong.

As for trash, odors, and unkempt areas, Garcia Recycling keeps its facility clean and its employees are constantly sweeping the area and picking up any litter. If Garcia Recycling did not maintain the area, I would certainly have stepped in. I have not had to do so. As for the noise, the operation is fairly noisy if you are near the facility because of the glass containers; however, I and my tenants have not found it to be offensively noisy given the location of the operation in the parking lot. Garcia Recycling is located in front of Lion's Den which is a bar that is only open at night. As such, the business is not disrupted by Garcia Recycling's operations. Next to Lion's Den is my restaurant, Costa Brava restaurant. My customers have not complained about the noise. It is clear to me that Garcia Recycling does its best to contain its operations to its designated area and minimizes its impact to the surroundings.

Once again, as a part owner of the shopping center, owner of the El Toro Bravo Market and other businesses in the shopping center, and the property manager, I wholeheartedly support Garcia Recycling's continued operations at its current location, and I strongly urge the Planning Commission not to revoke Garcia Recycling's permit.

Should you have any questions, please feel free to contact me.

Sincerely,



Victor M. Bonilla

July 21, 2010

Planning Commission  
City of Costa Mesa  
c/o Mr. Mel Lee  
Senior Planner  
P.O. Box 1200  
77 Fair Drive  
California, CA 92626-1200

Re: Garcia Recycling

Dear Commissioners:

We are the businesses in the shopping center at 739 West 19<sup>th</sup> Street, Costa Mesa, California. It has come to our attention that the Planning Commission is considering revoking Garcia Recycling Center's permit due to complaints about the appearance of the facility, litter, noise, and homeless people resulting from Garcia Recycling's operations. Garcia Recycling has been operating at this location as long as we have been here and our businesses have never been disrupted by its operations. Garcia Recycling runs a clean facility and provides a service which our community very much needs. Our customers regularly bring their beverage containers to Garcia Recycling, and we consider Garcia Recycling part of our community. We are not offended by the appearance of Garcia Recycling's operations, nor have we complained about any noise, litter, or homeless individuals resulting from Garcia Recycling.

It seems that the homeless individuals in the area come from Someone Cares Kitchen across the street, where they are provided free or subsidized food. It is unfair to blame Garcia Recycling for their presence in the area. Nevertheless, we believe that Garcia Recycling helps the underprivileged in our community by allowing them to cash in the beverage containers they collect from city streets. By doing so, Garcia Recycling is

helping to keep our streets clean as well as helping divert trash from our landfills which benefits the environment as a whole.

We strongly urge the Planning Commission to allow Garcia Recycling to continue its operations in our shopping center.

By: Diana Murillo

Company: El Toro Bros Tobacco

Date: 7-23-10

By: [Signature]

Company: COSTA MESA MEDICAL CLINIC

Date: 7-23-10

By: ~~Juan Acosta~~ Miguel Arredondo

Company: Juan Acosta

Date: 07-23-10

By: [Signature]

Company: STORIAS Mex food

Date: 7/23/2010

By: Yanela Bernal

Company: EVA'S Beauty Salon

Date: 7-23-10

By: Fabiola Trillos

Company: Lacomer Arroyo Corp

Date: 07/23/2010

By: Brenda Quintero

Company: BFS Wireless

Date: 07-23-10

By: \_\_\_\_\_

Company: \_\_\_\_\_

Date: \_\_\_\_\_

By: \_\_\_\_\_

Company: \_\_\_\_\_

Date: \_\_\_\_\_

EXHIBIT I

200

Victor M. Bonilla  
El Toro Bravo Market  
739 W. 19<sup>th</sup> Street  
Costa Mesa, California 92627  
(949)646-4266

July 21, 2010

Planning Commission  
City of Costa Mesa  
c/o Mr. Mel Lee  
Senior Planner  
P.O. Box 1200  
77 Fair Drive  
California, CA 92626-1200

Re: Garcia Recycling

Dear Commissioners:

I am the owner of El Toro Market, El Toro Bravo Tortilla Factory, and Costa Brava Restaurant in the shopping center located at 738 W. 19<sup>th</sup> Street in Costa Mesa. I am also a part owner of the shopping center and the property manager. I have been a part owner and the property manager for over 30 years. For the last 20 years, Garcia Recycling Center has been a tenant and has operated its mobile recycling facility in our parking lot. During the 20 years, I have not received any complaints about Garcia Recycling's operations. As such, I was very surprised to learn that the Planning Commission decided to review Garcia Recycling's conditional use permit with the intent of potentially revoking its permit.

As both the owner of El Toro Bravo Market and the shopping center, I consider Garcia Recycling an integral part of our community. I know all the tenants and neighbors and we all view Garcia Recycling as providing a very necessary service to the community. Many of my customers use Garcia Recycling and depend on its services for extra income, particularly in this tough economic climate. It is no wonder that Garcia Recycling is so busy.

I have observed Garcia Recycling's activities and I have determined that it currently is in the optimum spot in our parking lot. Garcia Recycling does not disrupt any of the businesses in the center. Moreover, the operation is not visible from the street. I attended the Planning Commission meeting on July 12, 2010 and heard an individual complain about seeing Garcia Recycling's "ugly" operations as he drives by, but I respectfully disagree. All that is visible from the street is the front of the truck and the back of an unmarked container, and there is even a tree blocking this view.

It is clear to me that there are residents in Costa Mesa who simply do not like the look of this shopping center because it primarily serves the Hispanic community.

As the owner of El Toro Bravo Market, I need Garcia Recycling because it is the only recycling facility in our convenience zone. As such, if it is shut down, we would be required to redeem beverage containers (which we cannot do due to the high volume) or pay \$100 per day to the State. ***We simply cannot afford to pay \$100 per day – this would cause my business severe financial hardship.***

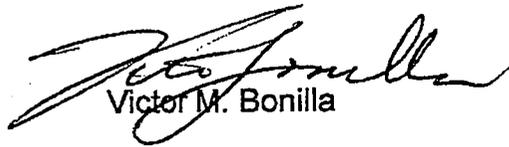
I understand that from reading the complaint letters received by the City (which was given to me at the July 12, 2010 meeting) that some residents are saying that Garcia Recycling bring in homeless people who are drunk and urinate everywhere, trash, odors, unkempt areas, and unnecessary noise. As the property manager who monitors the shopping center every day, I strongly disagree. While there is an occasional homeless person in the shopping center, these individuals are not necessarily brought in by Garcia Recycling. There is a homeless soup kitchen across the street, Someone Cares Kitchen, which serves the homeless. I (or my employees) usually ask them to move along if they have no business in our shopping center. However, we do not turn away such individuals if they are customers, including if they are selling beverage containers to Garcia Recycling. To do so, would be wrong.

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Once again, as a part owner of the shopping center, owner of the El Toro Bravo Market and other businesses in the shopping center, and the property manager, I wholeheartedly support Garcia Recycling's continued operations at its current location, and I strongly urge the Planning Commission not to revoke Garcia Recycling's permit.

Should you have any questions, please feel free to contact me.

Sincerely,



Victor M. Bonilla

EXHIBIT J

On July 9<sup>th</sup>, 2010, the Costa Mesa Planning Commission called for review of Garcia Recycling's conditional use permit for its operations at 739 W. 19<sup>th</sup> Street due to purported complaints about its operations from the community. The Planning Commission is contemplating either modifying or revoking Garcia Recycling's permit, and the hearing on this issue is scheduled on August 9, 2010 at 6:00 p.m. We believe that revoking the permit is unduly harsh since we are providing a much needed service to the community, and in the process we are helping to divert trash from landfills.

We believe we run a clean, efficient, recycling operation and we make every effort to minimize our impact to the surrounding neighborhood and businesses by constantly sweeping the area, picking up any litter, and keeping our trucks and containers freshly painted and free of graffiti. We also do our best to serve our customers as quickly as possible by having a large, well-trained staff. If you agree that Garcia Recycling's service is important to the community and that its operations are not disruptive to the surroundings or aesthetically offensive, please show your support by signing below.

<u>Name</u>	<u>Address</u>	<u>Telephone or email</u>
<u>WILLIAM J MILLS</u>	<u>1684 WHITTIER AVE. # 41 CM, 92627</u>	<u>949-446-2107</u>
<u>Frank Garguigue</u>	<u>2191 Harbor Blvd Spc # 3</u>	<u>949-649-5537</u>
<u>Gabrielle Allister</u>	<u>576 E. 18th Costa Mesa</u>	<u>949-646-9611</u>
_____	_____	_____
_____	_____	_____

Name	Address	Telephone or email
KATE PETERSEN	1530 Serrano	(949) 845-8224
Gabriel McAllister	376 E. 18th Costa Mesa	949/646-9611
Heged Masano	839 Towne SA Castana 9	(949) 502-1011
Grace Baudet	678 W. 19th St CM	949-646-0570
JUAN CEJA	387 W 5th BAY C. M.	949-566-4609
BIRD MILLS	1684 WHITTIER AVE #41 C.M. 92627	949/646-2107
Juan Orozco	<del>1684</del> 735 Shalimar #A	(949) 205-3768
Salvador Gonzalez	2029-E Pomona Av. Costa Mesa (G. 92627)	(949) 566-5459
EDDY NOEDQUIST	2330 VANQUARD WAY E-104 CM 92626	(714) 309-2707
<del>DAN SMITH</del>	304 Lutter Cm 92627	9/637-7126
Vince Enrico	20912 Shimmer Lane #13 92618	714 3532128
<del>ERIC BRICKA</del>	21472 Sabatana Ave C. Mesa 92627	(949) 631.6186
Pedro Coriel	1940 Wallace ave apt 9 cm 92627	(949) 574 9786
Dorothy Peppard	P.O. Box 2105 COSTA MESA, CA 92628	(714) 454-7070
JUAN GUTIERREZ	702 JAMES COSTA MESA CA 92627	714/6504226

Name	Address	Telephone or email
<u>Donald</u>	<u>San Antonio Dr.</u>	<u>949 1593365</u>
<u>Fernando Torres</u>	<u>1931 Pomona AVE C</u>	<u>949 5632694</u>
<u>Nancy Aldred</u>	<u>9668 N.P. Blvd</u>	<u>949-650-3121</u>
<u>Michael Mike</u>	<u>3140 Samaria Pl Costa Mesa CA</u>	<u>(949) 413-6447</u>
<u>Scott Silvero</u>	<u>109 VIA OLITO NB</u>	<u>949 8136081</u>
<u>Sanfer Sorenson</u>	<u>1959 Continental Av.</u>	<u>949 548-0038</u>
<u>Rodrigo Blumertz</u>	<u>21032 Shackelford Cir HB 92646</u>	<u>(714) 964-1804</u>
<u>Celia Galindo</u>	<u>657 plumer ST FA Co. CA 92627</u>	<u>(949) 650-2581</u>
<u>Hermisio Ploez</u>	<u>1819 Monrovia Ave #2 C. H-92627</u>	<u>(949) 891-4578</u>
<u>Benito Gonzalez</u>	<u>614 VESLEY TH ST CM CA</u>	<u>949 2307344</u>
<u>Marcos Miranda</u>	<u>26772 Morena Drive Mission Viejo 92691</u>	<u>949 8362803</u>
<u>Candy Moroy</u>	<u>2165 Cedar Glen Dr Apt E Costa Mesa</u>	<u>(949) 767-9160</u>
<u>María Hernandez</u>	<u>1965 Pomona Ave Apt #718 Costa Mesa</u>	<u>(949) 642-5999</u>
<u>Esperanza Murray</u>	<u>897 Center St. apt. 23 Costa Mesa CA 92624</u>	<u>949 650-21-81</u>
	<u>825 Center St apt 6-2-17 Costa Mesa</u>	

Name	Address	Telephone or email
Eva Gertrudina <del>Costa</del>	1843 Wallace Costa Mesa	949 3755188
VENUN. PLAMM.	4308 HILARIA WAY NEWPORT BEACH	949-665-6528
Banca Pérez	2414 Santa Ana W. apt A.	
Alicia Lopez	955 W 19th AP. E233/CN	
Maura Bahena	631 Victoria Rd	(949) 5548-6510
MICHAEL MAR	575 RED WINDS AVE, NP PMA	7280-0884
Antonio Pérez	956 JOANN ST C.M.C.	
Antonio Castaneda	963 Victoria St.	
Angel Soria	<del>2300 Fairview Rd #206</del>	714-545-5788
<del>Eloise</del>		
Jose Ortiz	605 Victoria St B107	949 631 6053
ANTHONY AULEN	914 W. 19th St COSTA MESA CA 92627	(949) 545-4590
MANUEL A	1780 PLACENTIA M - C	
STEVE BOULTON	2200 Newport Blvd N.B. 92663	949 673-0100
MARCO KUALCABA	1604 Ramona ave C.M.	949 274-5384

Telephone or email

949 612-7337

949 515 7265

949 3070702

949 548-270X

760 957 6187

(714) 574-2736

(949) 891 4619

949-784-0547

~~949~~ 714-957 8003

200 0085

(949) 521 95 15

949 640 6051

714 557 9049

949 650 9376

Address

3913 Mareus Av NB

149 E. Bay St.

140 E. Bay St.

301 STONEY LANE

2029 Chardo St. C.M

1251 Baker st Apt C.

765 S HALLMAN DR C

2007 MARGARET, NB

2910 Pepperfrc Ln op ACM

2528 Duke Pl. Costa Mesa CA 92626

1041 Pomona All.

2052 Pomona Ave Apt. A "A" C.M.

2015 Joyce Hill C.M.C.

1450 Downville Pl. C.M.

1107 Ridge Crest Ct Ca

Name  
Steven Wilson

Maria Sanchez

Laura Moscosa

BRAND GOWDY

James Pi

Filberto Gonzalez

Roberto Rosales

Suzene Husband

Gebrida Garcia

Mark Strickler

J Gonzalez

Ciro Garcia

Francisco Aguila

Alfonso Navarro

Chauville Mue

Name	Address	Telephone or email
Agustina A	940 W 185 APT B3-	949 566-5157
Gabriel Morales		
Vicente Ramirez	2245 Raleigh Ave Cam	949 646-8490
MIKE WILKS	790 W. WILSON APT A COSTA MESA	949 645 4892
JOSE Hernandez Antonio	2225 WALTER AVE	714 610-4272
Eugenio Hernandez	8545 Victoria APT #10	949 518-6768
MARIA M. MEXIA	2270 Miner ST #A Costa Mesa ca 92627	(714) 833-5121
MONY VARGAS	471 E BROADWAY APT #471	(914) 525-3397
Evanco Acosta	592 - Est Hanam	714 731-8090
Kathy Morgan	1732 Ross leaf Ave TUSTIN	949-554-7165
Shannon Gilbert	11912 37th Street Newport Beach	949 515-0347
Sally Buiz A	373 Palacam PL COSTA MESA CA 92627	949 642-1779
JOSEFINA CORDEBA	707 SHALIMAR APT. B. COSTA MESA	(714) 914 5918
JAIMO SON	E 14212 Raleigh Pl. Tustin Ca. 92780	95D 515-42-08
MARGON GARCIA	5558 WAYMAN ST RIVERSIDE CA 92504	

Telephone or email

714 968-2919  
949 650-0472  
714 650-4265  
949 25749034  
949 5277387  
(949) 548-3771  
949 575-2773  
(949) 566-5219  
(917) 35-7224  
914 968-0095  
949 422-5445  
(949) 672-7935  
(949) 922-7425  
949 5482128

Address

9717 Bickley Dr H.B. CA  
688 W Wilson St Costa Mesa, CA  
1975 POMONA #2 C.M.  
1965 WALLACE APT B2  
1885 Anaheim Ave CA, M.  
378 Fred Rd. C.M.  
9280 CAFE DE ALK.  
566 Hamilton St. Costa M.  
1921 Anaheim Apt 9 costanes?  
21342 GREENSPRAY #3  
1550 SUPERIOR COSTA MESA  
1525 SUPERIOR AVE STE 114 NB  
133 E 16th ST WITZ  
240112 EAST 116 ST.  
903 W 17th Costa Mesa CA

Name

Andy Alvarez  
Pedro Cuahutle  
Tom Mankin  
Jose Luis G. Lopez  
Richard G. ...  
Mike ...  
...  
Juan Garcia  
Rocio Jones  
Kelsey Gabriel  
... G.  
Laura Roll  
Nick Connoll  
Anna Lily ...  
Peter Allison

Name	Address	Telephone or email
Antawn Williams	2777 Harbor Blvd. Costa Mesa. CA	714-864-2032
Jaime Stence	615 Victoria St. #1	(949) 642-88-23
Cesar F. Flores	2032 Wallace Av. #9	(949) 350-2127
George Devine	344 Walnut Costa Mesa, Calif	949-548-1520
Jim Hunt	610 Marwood Corona Del Mar	
Mauricio Rodriguez	707 Shalimar Dr. S Costa Mesa Ca	949-515-2741
Santos Urans	125 Phvor St. Costa Mesa	949 646 8446
Joan Rodriguez	Pomene 1955- Hill. Costa Mesa	
Torresas	2016. WALLACE	949-5742513
Claudia Zavala	710 W 18 St. 23 Costa Mesa.	(714) 450-5020
Bud Shepard	1955 Pomona APT C Costa Mesa	714 206 3306
Julie Doble	2045 Shipway Lane, NB	
Mary Johnson	179. 219th St. M 92627	
Jose Goyzquez	92291 Harbor APT. 3 C. M.	

Telephone or email

747) 716-1034

(908) 706-1118

949-631-1302

949 680-2976

(949) 2955575

714) 409-9726

949 631-2766

(949) 515-9644

(949) 646-1839

(714) 485833

(714)

865-3979

Address

2700 Peterson PL apt-510 C.M.

989 Victoria St Apt H-3

1684 Whittier Ave Spc 2 <sup>cm</sup> 92627

786 W 17<sup>th</sup> St Cm 92627

661 sea / st Costa mesa ca

661 Seal St COSTA MESA CA

2010 Knight Blvd

271 Camellia Ln. Costa .c

271 camellia lane COSTA MESA

277 camellia LN COSTA MESA

1816 Pomeroy St <sup>AP. 1507</sup> Costa

634 Shalimar Dr

525 St. Victoria AP 62 C.M.

2520 SANTA CATALINA DR #8 COSTA MESA 92628

635 Baker St. Cm CALIF

Name

Dwan

Manuel Briones

Choras Kicking

SPRIT STAINING

Lambia Valenzuela

Michelle Vega

B Anderson

Mary Romero

Emily Rosales

ERIC ROSALES

JM ARNASER

Jose Lara

Veronica Costaneda

STEPHAN PANDARO

Wilbert Calvert

Telephone or email

Address

Name

<u>724 1/2 W. 19th Colma</u>	<u>(714) 462-1528</u>
<u>412 Olive Ave #340 H.B. 92648</u>	<u>949 94417861</u>
<u>1976 Alhambra Ave</u>	
<del>Stanley Levy</del>	
<u>940 W. 18 St Apt "D" 6</u>	<u>(949) 202-7113</u>
<u>940 W. 18 St Apt # D-6</u>	<u>(949) 566-7841</u>
<u>376 E. 21st St Apt # 202</u>	
<u>586 W. Union St Castro Park</u>	<u>747 4131946</u>
<u>2103 Wallace Ave. Costa Mesa</u>	<u>725 645-812</u>
<u>116 Thomas St #A</u>	<u>949/642-3156</u>
<u>3118 Gibraltar Ave Costa Mesa CA</u>	<u>(714) 299-3956</u>
<u>3119 Gibraltar Ave Costa Mesa CA</u>	<u>(714) 435-9012</u>
<u>2002 Bear Blvd. CA</u>	<u>(714) 969-6795</u>
<u>863 center st. Apt 15</u>	<u>(949) 929 4688</u>
<u>2193 Maple . st. A Costa Mesa</u>	<u>949 6891334</u>