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Irvine, CA 92614
949-851-7294

From: Skinner, David <david@meyersnave.com>

Sent: Wednesday, May 21, 2025 2:02 PM

To: Michael Leifer <mleifer@palmierilawgroup.com>

Cc: Erin Naderi <enaderi@palmierilawgroup.com>; Michelle Pase <mpase@palmierilawgroup.com>; Szoke, Kristof <kszoke@meyersnave.com>

Subject: City of Corona v CPI Properties, LLC: Meet and Confer on CPI's Motion to Bifurcate

Hi Mike. This shall serve as the City of Corona's attempt to meet-and-confer on CPI Properties' recent Motion to Bifurcate.

As I understand it, prior to your firm substituting in as counsel of record for CPI Properties, and prior to my firm substituting in as counsel of record for the City, there was mediation. At that time, the BBK law firm represented the City, and Rick Friess represented CPI Properties. I am apprised that there was no issue or dispute that (due to unforeseen construction needs and delays) the City needed the TCE area for a longer period of time than what is set forth in the resolution of necessity and complaint in eminent domain. Further, there was no issue or dispute that CPI Properties is entitled to compensation for the extended TCE period.

In my experience, when this occurs, a public entity reaches out to the landowner and requests that the landowner stipulate to having the public entity amend the complaint in eminent domain to account for the extended TCE period. The parties typically agree that the public entity will increase its deposit (pursuant to CCP Section 1255.010) by an additional rental amount which reflects the extended period of the TCE. It seems that, at the mediation, the BBK firm and Rick Friess thought that the settlement would include the extended TCE term and there would be no need to formally amend the City's Complaint in Eminent Domain.

In either case, if a landowner refuses to stipulate to allowing the public entity amend the complaint in eminent domain, the public entity's options are limited. Under CCP Section 1250.340(c), a public entity may delete property from its complaint in eminent domain by way of an amendment to the complaint so long as the public entity follows the procedure for a partial abandonment. But, under CCP Section 1250.340(b), a public entity may not add to the property sought to be taken (absent a stipulation from the landowner) unless the public entity adopts another resolution of necessity.

With that:

1. Will CPI Properties agree to allow the City to amend its Complaint in Eminent Domain to account for the extended TCE period? If so, as referenced above, the City would increase the deposit amount to reflect the extended TCE period.
2. If CPI will not agree, the City will consider the option of adopting another resolution of necessity so that it can amend its Complaint in Eminent Domain to extend the TCE period.

For timing purposes, I would prefer option 1 above. If the City decides to hold another hearing on a resolution of necessity, I would be concerned about other deadlines relating to the October 31 trial date. I understand the judge stated (at the last trial setting conference) that he did not want to continue the trial again. But, if CPI will not agree to allowing the City to amend its Complaint in Eminent Domain, and if the City needs to adopt another RON, I may not have a choice but to request a trial continuance.

Whether the City amends its Complaint by stipulation or after adopting another RON, your client's inverse condemnation claim would become moot. There would be no reason to have a trial on it. CPI's motion to bifurcate would then also be unnecessary.

Let me know our thoughts. Happy to discuss if you have time. I am available tomorrow and Friday.

Thanks.

David

David W. Skinner
Managing Principal

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Stewart, Christina

From: Skinner, David
Sent: Monday, June 23, 2025 12:39 PM
To: Szoke, Kristof; Stewart, Christina
Subject: FW: Michael H Leifer sent you "Motion to Bifurcate - Stipulation re Order"
Attachments: Motion to Bifurcate - Stipulation re Order.docx

From: Skinner, David
Sent: Monday, June 23, 2025 12:39 PM
To: Michael Leifer <mleifer@palmierilawgroup.com>
Cc: Szoke, Kristof <kszoke@meyersnave.com>; Michael Kehoe <mkehoe@palmierilawgroup.com>; Erin Naderi <enaderi@palmierilawgroup.com>; Michelle Pase <mpase@palmierilawgroup.com>
Subject: FW: Michael H Leifer sent you "Motion to Bifurcate - Stipulation re Order"

Hi Mike. Based on my review of the Court's Minute Order, the Court granted your Motion to Bifurcate such that, in the event there is a trial on "liability" in inverse condemnation, such trial will be a bench trial. The previously set October 31, 2025 trial date would be that trial date.

You are correct that the Court did not expressly set a trial date on the valuation/damages phase of the trial (which would be a jury trial). Your proposed Stip is to have the Court set this after completion of the phase one bench trial.

Here are my concerns:

1. While the City understands that a bench trial on liability in inverse condemnation is to be bifurcated from a jury trial on the issue of compensation/damages, the City intends to provide you with a proposed amendment to its Complaint in Eminent Domain . This would include an extended TCE term and certain parking spaces which were used by the contractor's workers during construction.
2. I am not aware of any other property interests (other than the extended TCE and use of parking spaces) which are not set forth in the City's RON and Complaint in Eminent Domain but which may be the subject of your client's inverse condemnation action. If you are aware of any other such property interests, please let me know. This should not be difficult since construction of the Project is nearly complete. The City is not interested in litigating an inverse condemnation action; if the City is actually acquiring property interests which are not set forth in the RON and Complaint, the City prefers to include them in an amended Complaint in Eminent Domain so the parties can focus on the question of compensation.
3. If, after the City forwards the proposed amended complaint to you, your client will not stipulate to an amendment, the City would consider adopting another RON so that it could amend its Complaint in Eminent Domain. In that event, your client's inverse condemnation complaint would presumably be moot.
4. If the City needs to adopt another RON and file an amended Complaint in Eminent Domain, this should be able to occur before the October 31 trial date. Then, there would be no need for a trial on our client's inverse condemnation claim and we would only have a jury trial on the issue of compensation.

5. I am assuming that your client would like the issue of compensation to be resolved as soon as possible. But your proposal seems to be for the parties to wait until after the October 21 trial is concluded before setting a trial date on the issue of compensation. As you know, a trial date on the issue of compensation must be set out far enough in the future to allow the parties to exchange lists of expert witnesses and statements of valuation data 90 days before the trial. (CCP Section 1258.220(a).) Realistically, with appraisers' busy schedules, the appraisers could want up to 6 months from the date of receiving their assignment to the date of completing their appraisal. This means, subject to the Court's availability, that a jury trial on the issue of compensation would not occur before April 30, 2026. Is this what you are seeking here?

Whether the October 31 bench trial goes forward or not, we should be able to agree on a more expedited schedule where (a) the parties' respective appraisers know what they are appraising and are appraising the same property interests; (b) the parties' respective appraisers have enough lead time to prepare their statements of valuation 90 days before the date of a jury trial; and (c) the court need not wait until after a trial on October 31 (which may not even proceed) to set a jury trial on valuation.

Let me know your thoughts.

Thaks.

David

David W. Skinner
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From: Michelle Pase <mpase@palmierilawgroup.com>

Sent: Monday, June 23, 2025 10:14 AM

To: Szoke, Kristof <kszoke@meyersnave.com>; Skinner, David <david@meyersnave.com>

Cc: Michael Leifer <mleifer@palmierilawgroup.com>; Michael Kehoe <mkehoe@palmierilawgroup.com>; Erin Naderi <enaderi@palmierilawgroup.com>; Michelle Pase <mpase@palmierilawgroup.com>

Subject: FW: Michael H Leifer sent you "Motion to Bifurcate - Stipulation re Order"

[EXTERNAL E-MAIL]

Good morning.

Mr. Leifer asked me to follow up on the status of the attached stipulation.

He also asked me to follow up on the document productions.

Please advise.

David:

Not jousting with you about this. We addressed a City "attempt to condemn the past" theory in our Reply. You even have informed that the construction delay was unforeseeable.

You are funny: You concede inverse. You dispute inverse.

You ignore our discovery. Yet now you demand "substantive" responses in an email about a calendaring matter—which is nothing more than a clarification to which you conceded in your earlier email today.

We have properly sought discovery concerning inverse that you have blown off with bogus objections resulting in our two filing motions to compel.

Yet, you are stalling to try to figure out what inverse to concede to.

This issue is about formalizing what is to occur on October 31.

Stipulation or ex parte?

Thanks.

Mike

Michael H. Leifer, Partner
mleifer@palmierilawgroup.com
3 Park Plaza, Suite 1950
Irvine, CA 92614
949-851-7294

From: Skinner, David <david@meyersnave.com>

Sent: Monday, June 23, 2025 2:50 PM

To: Michael Leifer <mleifer@palmierilawgroup.com>

Cc: Szoke, Kristof <kszoke@meyersnave.com>; Michael Kehoe <mkehoe@palmierilawgroup.com>; Erin Naderi <enaderi@palmierilawgroup.com>; Michelle Pase <mpase@palmierilawgroup.com>

Subject: RE: Michael H Leifer sent you "Motion to Bifurcate - Stipulation re Order"

Still waiting for substantive responses. Can you state why you do not believe the City can amend its Complaint in Eminent Domain? If the City does not have legal authority to do this, your approach may make more sense. Can you provide applicable authority supporting your position? Seems like, whether the City is able to amend its complaint or whether your client prevails on an inverse condemnation claim, we are going to end up in the same place – i.e., having our appraisers value the same property interests. Shouldn't that be the focus?

Thanks.

David

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From: Michael Leifer <mleifer@palmierilawgroup.com>
Sent: Monday, June 23, 2025 2:42 PM
To: Skinner, David <david@meyersnave.com>
Cc: Szoke, Kristof <kszoke@meyersnave.com>; Michael Kehoe <mkehoe@palmierilawgroup.com>; Erin Naderi <enaderi@palmierilawgroup.com>; Michelle Pase <mpase@palmierilawgroup.com>
Subject: RE: Michael H Leifer sent you "Motion to Bifurcate - Stipulation re Order"

Are you insisting that this be resolved via ex parte?

Thanks.

Mike

Michael H. Leifer, Partner
mleifer@palmierilawgroup.com
3 Park Plaza, Suite 1950
Irvine, CA 92614
949-851-7294

From: Michael Leifer
Sent: Monday, June 23, 2025 1:49 PM
To: Skinner, David <david@meyersnave.com>
Cc: Szoke, Kristof <kszoke@meyersnave.com>; Michael Kehoe <mkehoe@palmierilawgroup.com>; Erin Naderi <enaderi@palmierilawgroup.com>; Michelle Pase <mpase@palmierilawgroup.com>
Subject: RE: Michael H Leifer sent you "Motion to Bifurcate - Stipulation re Order"

David:

My thoughts were, please sign the stipulation and return for filing.

That way, everyone is clear about 10/31/25.

As to valuation trial setting, as discussed with Kristof, we can further discuss.

As to your plan to seek to retroactively condemn more time or scope, we disagree with the City's ability to do so.

Are you going to compel us to bring this as an ex parte? Let us know this afternoon, please.

Mike

Stewart, Christina

From: Skinner, David
Sent: Thursday, July 3, 2025 1:22 PM
To: Stewart, Christina; Szoke, Kristof
Subject: FW: City of Corona v C.P.I. Properties, LLC, et al.
Attachments: 250623 - Additional Property Impacts Memorandum.pdf

From: Skinner, David
Sent: Thursday, July 3, 2025 1:21 PM
To: Michael Leifer <mleifer@palmierilawgroup.com>
Cc: Szoke, Kristof <kszoke@meyersnave.com>
Subject: City of Corona v C.P.I. Properties, LLC, et al.

Hi Mike. I am following up on our recent emails regarding CPI's motion to bifurcate, the trial date(s), and CPI's cross-complaint for inverse condemnation.

As we have discussed, the City of Corona acknowledges that – in the course of construction of the McKinley Street Grade Separation Project – the City's contractor utilized more your client's property than was initially anticipated when the City adopted a Resolution of Necessity and filed a Complaint in Eminent Domain. While neither of our respective firms were involved in prior mediation(s) between the City and CPI (with different attorneys), it is my understanding that there was no dispute on this, and that the parties simply intended to include the greater impacts as part of the compensation which the City would pay to CPI. But the case did not settle. Your firm was then substituted in on behalf of CPI, and CPI filed a cross-complaint for inverse condemnation. My firm was thereafter substituted in on behalf of the City, and I have corresponded with you on a proposed solution to address the issue.

As part of that correspondence, I advised that Josh Cosper of Mark Thomas was in the process of preparing a summary of property interests which the City's contractor used in the course of construction but which were not included in the City's RON or Complaint in Eminent Domain. Mr. Cosper has done that. His written summary is attached. I understand my office is waiting for you so the parties can schedule a date for Mr. Copser's second deposition. You now have Mr. Cosper's written summary in advance of that second deposition.

In regards to proceeding with the eminent domain case, again, the City acknowledges the need to include these additional property interests in its Complaint in Eminent Domain. The City acknowledges that CPI is entitled to compensation for these additional property interests. Going forward, the City's proposal on how to proceed with the case is thus as follows:

1. CPI stipulates to allow the City to amend its Complaint in Eminent Domain under CCP Section 1250.340 so that the City can include the additional property interests referenced in Mr. Jospser's memo;
2. The City files a First Amended Complaint in Eminent Domain to include the additional property interests;
3. Reserving its rights under CCP Section 1036, CPI dismisses its cross-complaint for inverse condemnation. Given that the City would include the additional property interests in a First Amended Complaint in Eminent Domain, there would be no dispute as to CPI's entitlement to compensation for

those interests. CPI's cross-complaint (subject to CPI's potential claims under CCP Section 1036) would be moot. See, e.g., *Weiss v People ex rel. Dept. of Transp.* (2020) 9 Cal. 5th 840, 853, distinguishing eminent domain cases (where "the public entity concedes liability" and "there is ordinarily no question that the public entity has taken or damages the property at issue") from inverse condemnation cases (where "most inverse condemnation actions involve disputed claims that the public entity has damaged or constructively taken, rather than directly taken, the property at issue");

4. The parties agree to request the Court to take the October 31 trial date off calendar. Per CPI's recent motion to bifurcate, the Court kept this trial on calendar as a bench trial on CPI's cross-complaint for inverse condemnation; and
5. The parties agree on a new trial date which (if necessary and if the parties are not otherwise able to settle the amount of just compensation to which CPI is entitled prior to trial) would be a jury trial on the issue of compensation. Of course, this trial date would be subject to the Court's availability and approval. This trial date can be set out far enough to accommodate the schedules of the parties' respective appraisers so that the parties can comply with CCP Section 1258.220(a) -- exchanging lists of expert witnesses and statements of valuation data 90 days before the commencement of trial on the issue of compensation.

I believe this approach benefits both parties. First, the parties' respective appraisers can conduct an apples-to-apples appraisal analysis where they are valuing the same property interests.

Second, in terms of "timing", it is not uncommon for an eminent domain jury trial on the issue of compensation to proceed before completion of the public project. When this occurs, the parties' respective appraisers in a "part take" situation are to consider the damage (if any) caused to the remainder by "the construction and use of the project for which the property is taken in the manner proposed by the plaintiff." (CCP Section 1263.420(b).) In cases where construction of the project is not complete, the parties' designated expert real estate appraisers rely on the public entity's description of the project (including, but not limited to, project plans and specifications) to determine the scope of the project and "the manner proposed by the plaintiff." (See, e.g., *1 Matteoni Condemnation Practice in California* (3d ed Cal CEB), Section 5.3.) But, in the instant case, construction of the McKinley Street Grade Separation Project is nearly complete. By the time of an agreed expert exchange date, each party's respective appraiser would know (1) the precise scope of the City's taking based upon the First Amended Complaint in Eminent Domain, and (2) the details of the actual construction of the project since construction will have been completed.

Let me know your thoughts and/or if you have a counter-proposal. I am available next week if you would like to discuss.

Happy 4th of July!

Thanks.

David

David W. Skinner
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Stewart, Christina

From: Skinner, David
Sent: Thursday, July 17, 2025 12:18 PM
To: Szoke, Kristof; Stewart, Christina
Subject: FW: Michael H Leifer sent you "Motion to Bifurcate - Stipulation re Order"

Follow Up Flag: Follow up
Flag Status: Completed

From: Skinner, David
Sent: Thursday, July 17, 2025 12:07 PM
To: Michael Leifer <mleifer@palmierilawgroup.com>
Cc: Szoke, Kristof <kszoke@meyersnave.com>; Michael Kehoe <mkehoe@palmierilawgroup.com>; Erin Naderi <enaderi@palmierilawgroup.com>; Michelle Pase <mpase@palmierilawgroup.com>
Subject: RE: Michael H Leifer sent you "Motion to Bifurcate - Stipulation re Order"

Hi Mike. This is a lengthy email. (Apologies.) Want to see if we can agree on an approach going forward.

I saw that Judge Magno denied your July 15 ex parte application. Probably like you, the City did not expect a ruling from Judge Magno so quickly after you filed the ex parte application. The hearing date was set for 8:30 a.m. on July 16. I had intended to file a response (the City had until 8:00 a.m. on the morning of the hearing to do so) and also appear remotely at the July 16 hearing. But Judge Magno issued his Minute Order on the same day that you filed your application.

As stated in prior emails, the City of Corona agrees that a jury trial date (on the question of valuation) should be set far enough in advance to give the parties sufficient time to exchange lists of expert witnesses and statements of valuation data 90 days before the trial date per CCP Section 1258.220. The City's objection to your proposal is that there is no need for a bench trial on your cross-complaint for inverse condemnation. As I understand it, before you and I became involved in this case (and when Mark Easter represented the City and Rick Friess represented CPI), the City had already agreed (at mediation) to compensate CPI for additional property impacts/interests. When the case did not settle and after the City retained me, the City provided Josh Cospers' memo to you. The City is prepared to amend its complaint in eminent domain to reflect the additional property impacts/interests that were not reflected in the original RON and/or Complaint in Eminent Domain. But the City needs CPI to stipulate to allow it to amend its Complaint. If CPI will not stipulate, the City can amend its resolution of necessity ("RON") and Complaint per CCP Section 1250.340(b). If need be, I understand the City could put an amended RON on its agenda for its August 20 City Council meeting. Notably, construction on the McKinley Street Grade Separation Project is nearly complete. Whatever additional property impacts/interests (that were not included in the original RON and Complaint in Eminent Domain) are known.

We were not able to discuss this with Judge Magno prior to the time that he issued his ruling. But, now, there may be some added confusion from Judge Magno's Minute Order. Judge Magno refers to your cross-complaint for inverse condemnation and states that "liability must be determined prior to the jury trial." This is consistent with his prior ruling on your motion to bifurcate. However, Judge Magno's Minute Order then states: "10/31/2025 8:30 AM Jury Trial () in Department 7 confirmed." I may not be interpreting this correctly, but is Judge Magno ordering a bench trial (on the issue of liability under your cross-complaint for inverse

condemnation) to proceed first on October 31, with a jury trial on the issue of valuation to proceed right after? If so, we both may have a problem.

If Judge Magno's current expectation is that the October 31 trial date will serve as *both* the trial date for the issue of liability on CPI's cross-complaint for inverse condemnation *and also* the jury trial date on the issue of value, the parties would likely not have enough time to exchange lists of expert witnesses and statements of valuation data 90 days before the trial. Per my calendar, with an October 31 trial date, the exchange date would be August 1. As you point out, until the parties' respective appraisers know what they are valuing, they will not be in a position to finalize statements of valuation.

I propose that we agree on a jury trial date (on the issue of valuation) which gives the parties and their respective appraisers sufficient time (after resolving the issue of new property impacts/interests which need to be accounted for) to prepare statements of valuation 90 days before that jury trial date. Then, we would make a joint, in-person appearance in Judge Magno's Court and explain why we need a continuance of the jury trial. I have found that in-person appearances by the parties' respective attorneys can be more effective than ex parte papers alone.

Assuming we can obtain a continuance of the jury trial, we can separately address our dispute as to the need for a bench trial on liability in inverse condemnation. The City acknowledges that it needs to amend its Complaint in Eminent Domain. We provided Mr. Cospser's memo to you to let you know what property impacts/ interests should be added. I also previously proposed that, if CPI stipulates to allow the City to amend its Complaint in Eminent Domain to account for the new impacts/property interests referenced in Mr. Cospser's memo, CPI could reserve its rights under CCP Section 1036. Is there any other issue that CPI is concerned about such that it prefers a trial on liability in inverse condemnation rather than allowing the City to simply amend its Complaint? Does CPI want to turn this into a "race" where CPI seeks to obtain a ruling on its cross-complaint before the City amends its Complaint in Eminent Domain? I may be missing something here. If so, please let me know.

Also, if CPI believes there are any additional property interests that are being impacted or taken by the City (in addition to those referenced in Mr Cospser's memo), please let me know. You have noticed Mr. Cospser's depo for July 29. I understand that Mr. Cospser is returning to work today from a vacation. We will reach out to him to determine if he is available on the 29th, or if the depo needs to be set for a different date. Either way, if you believe the City is acquiring more property interests than set forth in Mr. Cospser's memo, you should ask him about it.

Procedurally, if there is a bench trial on the City's liability in inverse condemnation on October 31, Mr. Cospser would be the City's expert witness. If CPI believes there are additional property impacts/interests tht the City is acquiring but the City will not agree, the October 31 trial date may be necessary. (Per my calendar, if CPI intends to have its own expert testimony on this issue, per CCP Section 2034.010, a demand for expert witnesses would need to be served by August 22; and expert lists would need to be exchanged 50 days before the Oct. 31 trial date, or September 11.) Again, by this time, if need be, the City Council could amend its RON and file an amended Complaint in Eminent Domain before August 22.

Again, apologies for the lengthy email. Please let me know your thoughts.

Thanks.

David

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From: Michael Leifer <mleifer@palmierilawgroup.com>

Sent: Monday, June 23, 2025 4:15 PM

To: Skinner, David <david@meyersnave.com>

Cc: Szoke, Kristof <kszoke@meyersnave.com>; Michael Kehoe <mkehoe@palmierilawgroup.com>; Erin Naderi <enaderi@palmierilawgroup.com>; Michelle Pase <mpase@palmierilawgroup.com>

Subject: RE: Michael H Leifer sent you "Motion to Bifurcate - Stipulation re Order"

David:

We are entitled to written discovery responses. The City is wrongfully refusing to answer the written discovery. The motions to compel are necessary.

We are also entitled to document production. The City has failed to adequately produce. I understand that Kristof is working on that. We await adequacy. Pheifer's production was also inadequate. We are entitled to meeting minutes, etc. that were improperly withheld.

We are also entitled to depositions. Another Josh Cosper deposition is not a substitute for the City's written discovery responses. We want the City's written responses and the verifications. Write them up. Serve them. Verify them.

Basically, the City has stonewalled on the discovery.

Now, back to the point, you are refusing to Stipulate to the calendar clarification.

You are forcing us to proceed with the Ex Parte. We will so inform the Court.

Mike

PALMIERI
HENNESSEY
LEIFER, LLP

Michael H. Leifer, Partner