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CITY OF LINCOLN

EXEMPT FROM FILING FEES PURSUANT  
TO GOVERNMENT CODE SECTION 6103

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF PLACER

CITY OF LINCOLN, a California municipal  
corporation,  
CITY OF LINCOLN, by and for the People of  
the State of California,

Plaintiff/Petitioner,

v.

THE GATHERING INN, a California public  
benefit non-profit corporation;  
CALIFORNIA DEPARTMENT OF SOCIAL  
SERVICES, a California state agency,  
HORNE LLP, a Delaware limited liability  
partnership, and DOES 1 through 15 inclusive,

Defendants/Respondents.

Case No. S-CV-0053711  
Related with Case No. S-CV-0053727

**PLAINTIFF AND PETITIONER CITY  
OF LINCOLN'S OPPOSITION TO  
DEFENDANT THE GATHERING  
INN'S REQUEST FOR JUDICIAL  
NOTICE IN SUPPORT OF ITS  
DEMURRER TO SECOND AMENDED  
COMPLAINT**

Date: October 7, 2025  
Time: 8:30 a.m.  
Dept.: 42  
Judge: Trisha J. Hirashima

Action Filed: September 30, 2024

Plaintiff and Petitioner City of Lincoln (the “City”) respectfully submits the following Opposition to Defendant The Gathering Inn (“TGI”)’s Request for Judicial Notice (“RJN”).

## **I. INTRODUCTION**

Defendant TGI inappropriately requests judicial notice on an irrelevant document, attached as Exhibit C to TGI’s RJN, and a document that contains improper hearsay that is attached as Exhibit D to TGI’s RJN. This request flies in the face of California law. The Court should refuse to take judicial notice of these documents, or the contents stated therein.

## **II. ARGUMENT<sup>1</sup>**

### **A. Exhibit C is Not Subject to Judicial Notice.**

The Court may not take judicial notice of irrelevant documents. (See e.g., *People v. Townsel* (2016) 63 Cal.4th 25, 42 [denying judicial notice due to irrelevancy of documents].) Here, TGI requests judicial notice of Child Care Bulletin, No. 22-30, attached to TGI’s RJN as Exhibit “C.” TGI fails to establish the relevancy of this document in its RJN. Even a review of TGI’s Demurrer does not explain the relevancy of this document. In fact, the document is irrelevant because it discusses child care and development programs, programs that are not at issue in this case. Furthermore, TGI does not sufficiently explain what the document is or how/why it can be compared to the BHCIP and CCE Program Update (the “Update”), attached to the City’s Second Amended Complaint (“SAC”) as Exhibit “B,” as it attempts to do in its Demurrer. Finally, TGI fails to establish the Court’s authority to take judicial notice of the Child Care Bulletin because the Child Care Bulletin is not a web page, as TGI represents.

### **B. Exhibit D is Not Subject to Judicial Notice.**

The Court may not take judicial notice of “the truth of statements contained in [a] document and its proper interpretation.” (*Fremont Indemnity Co. v. Fremont General Corp.* (2007) 148 Cal.App.4th 97, 113.) Nor may the Court take judicial notice of a legal conclusion or

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<sup>1</sup> Although the City does not object to Exhibits “A” and “B,” attached to TGI’s RJN, the City notes that TGI fails to demonstrate the relevancy of these Exhibits in its RJN. Further, TGI is mistaken that the Court granted the City’s RJN regarding CDSS’s “Letters and Notices” web page. The City never requested judicial notice on this document; rather, it was Defendant California Department of Social Services (“CDSS”) that requested judicial notice on the document. (See CDSS’s Request for Judicial Notice, filed on December 20, 2024.)

1 of hearsay. (*American Indian Model Schools v. Oakland Unified School Dist.* (2014) 227  
2 Cal.App.4th 258, 293; *Barri v. Workers' Comp. Appeals Bd.* (2018) 28 Cal.App.5th 428, 437.)

3 Here, TGI inappropriately requests the Court to take judicial notice of an email discussing  
4 a question of duty, which is a disputed question in this matter. TGI argues that the email and its  
5 contents are not subject to reasonable dispute; but this argument is belied by the very fact that  
6 TGI submits the email in attempt to argue that a duty does not exist. TGI cannot convert this  
7 demurrer into a hearing of contested facts, which it is attempting to do. Also, the Court cannot  
8 take judicial notice of a legal conclusion. (See e.g., *American Indian Model Schools*, 227  
9 Cal.App.4th at 293.)

10 California law is also clear that the Court cannot take judicial notice of “the truth of  
11 statements” contained in a document, which is exactly what TGI is requesting the Court to do.  
12 (See *Fremont Indemnity Co.*, 148 Cal.App.4th at 113.) TGI has not established the author’s  
13 background, whether the author had authority to make such a statement, or how and why this  
14 opinion has any semblance of truth or accuracy to it. California law prevents a Court from taking  
15 judicial notice of “the truth of statements” because a “hearing on demurrer may not be turned into  
16 a contested evidentiary hearing.” (*Id.* at 114.) At bottom, the Court cannot take judicial notice of  
17 hearsay, which is what TGI is requesting. (See *Barri*, 28 Cal.App.5th at 437.)


18 Finally, even if this exhibit was subject to judicial notice and did not contain improper  
19 hearsay, it is entirely irrelevant because the exhibit does not contradict any of the allegations in  
20 the SAC. The City alleges that TGI had a legal duty to conduct community engagement with the  
21 Lincoln community, including with its civic leaders, i.e. the City Council and key staff within  
22 Lincoln, and to meaningfully involve these stakeholders in the development of TGI’s project.  
23 The City does not allege that written letters of support from any one institution or stakeholder  
24 group were required for an application to be complete, rather what was required was community  
25 engagement and meaningful involvement with stakeholders. TGI is attempting to compare an  
26 apple to an orange, and its inclusion of this exhibit in an RJN is completely improper. Also, it  
27 should be noted that the email attached as Exhibit D is dated July 14, 2022, which predates TGI’s  
28 attempt to edit its application to locate its project in Lincoln.

1 **III. CONCLUSION**

2 The foregoing reasons, the City respectfully requests the Court to refuse to take judicial  
3 noticing Exhibits C and D in Defendant TGI's Request for Judicial Notice.

4 Dated: September 22, 2025

BEST BEST & KRIEGER LLP

6 By:   
7 CHRISTOPHER M. PISANO  
8 PATRICIA URSEA  
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CITY OF LINCOLN

**PROOF OF SERVICE**

I, Monica Quinones, declare:

I am a citizen of the United States and employed in San Bernardino County, California. I am over the age of eighteen years and not a party to the within-entitled action. My business address is 2855 E. Guasti Road, Suite 400, Ontario, California 91761. On September 22, 2025, I served a copy of the within document(s):

**PLAINTIFF AND PETITIONER CITY OF LINCOLN'S  
OPPOSITION TO DEFENDANT THE GATHERING INN'S  
REQUEST FOR JUDICIAL NOTICE IN SUPPORT OF ITS  
DEMURRER TO SECOND AMENDED COMPLAINT**

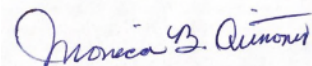
- ☐ by transmitting via facsimile the document(s) listed above to the fax number(s) set forth below on this date before 5:00 p.m.
- ☐ by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, the United States mail at Ontario, California addressed as set forth below.
- ☐ by placing the document(s) listed above in a sealed \_\_\_\_\_ envelope and affixing a pre-paid air bill, and causing the envelope to be delivered to a \_\_\_\_\_ agent for delivery.
- ☐ by personally delivering the document(s) listed above to the person(s) at the address(es) set forth below.
- ☒ by transmitting via e-mail or electronic transmission the document(s) listed above to the person(s) at the e-mail address(es) set forth below.

*Please see attached Service List.*

I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

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

Executed on September 22, 2025, at Ontario, California.



Monica Quinones

**SERVICE LIST**

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