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CLERK OF THE SUPERIOR COURT
COUNTY OF CONTRA COSTA, CA

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF CONTRA COSTA

ROBERT TIERNAN, *et al.*,
Plaintiffs,

v.

DIABLO COMMUNITY SERVICES
DISTRICT, *et al.*;
Defendants.

Case No. MSC 17-02529

Honorable Charles S. Treat, Dept. 12

~~PROPOSED~~

JUDGMENT ON THE COMPLAINT

Action Filed: December 21, 2017

The Court hereby enters Judgment in this matter as follows:

WHEREAS, by its Order entered herein on October 30, 2018, the Court granted Defendant Diablo Community Services District (“DCSD”) motion for judgment on the pleadings on Plaintiffs’ Third Cause of Action for declaratory relief set forth in the First Amended Complaint on the grounds that DCSD “is entitled to a judicial declaration that [DCSD] does not have the authority to prevent the “general public, including... bicyclists, vehicles and pedestrians” from using Calle Arroyo in Diablo;

WHEREAS, by its Order entered herein on November 19, 2018, the Court granted Plaintiffs’ Motion for Summary Adjudication as to their First Cause of Action for quiet title set forth in the First Amended Complaint on the grounds that Plaintiffs established as a matter of law and undisputed fact that Calle Arroyo is a private road owned by the homeowners on that road and the Diablo Country Club and that Calle Arroyo is not subject to any general easement of public use and that there is no express or implied dedication or easement of Calle Arroyo for

1 public use;

2 WHEREAS, on November 19, 2018, the Court granted Plaintiffs' request to dismiss their
3 Second Cause of Action as stated in their First Amended Complaint;

4 WHEREAS, pursuant to a written Settlement Agreement, Plaintiffs have agreed to dismiss
5 the new Third Cause of Action against DCSD in the Second Amended Complaint, without
6 prejudice, which is the only remaining cause of action in this case, and

7 WHEREAS the Court's rulings and the above-referenced dismissals resolve all issues
8 raise by the Complaint,

9 WHEREFORE, JUDGMENT IS HEREBY ENTERED AS FOLLOWS:

10 1. Judgment is for Plaintiffs on the First Cause of Action for Quiet Title stated in the
11 First Amended Complaint;

12 2. Judgment is for DCSD on the Third Cause of Action for Declaratory Relief stated
13 in the First Amended Complaint;

14 3. The new Third Cause of Action stated in the Second Amended Complaint is
15 dismissed without prejudice and subject to the provisions of Code of Civil Procedure section
16 664.6;

17 4. DCSD and Plaintiffs shall each bear their own attorneys' fees and costs incurred in
18 connection with this action;

19 5. As the prevailing party on the First Cause of Action against Bike East Bay,
20 Plaintiffs are entitled to submit their cost bill pursuant to CCP section 1032; and

21 6. A copy of this Judgment may be recorded in the Official Records of Contra Costa
22 County against the real properties affected by the order quieting title to Calle Arroyo.

23 7. Nothing in this Judgment on the Complaint affects the issues, claims and defenses
24 raised by the Cross-Complaint by Winston Cervantes filed herein on April 25, 2019.

25 **CHARLES S. TREAT**

26 _____
Judge of the Superior Court

27 SF #4822-8233-1802 v1