Michael W. Stamp/SBN 72785
Molly Erickson/SBN 253198
Stamp | Erickson
479 Pacific Street, Suite One
Monterey, California 93940
Phone: 831.373.1214 Fax: 831.373.0242
erickson@stamplaw.us

Susan Brandt-Hawley/SBN 75907
Brandt-Hawley Law Group
P.O. Box 1659 Glen Ellen, CA 95442
Phone: 707.938.3900 Fax: 707.938.3200
susanbh@preservationlawyers.com

Rachel Mansfield-Howlett/SBN 248809
Provencher & Flatt, LLP
823 Sonoma Ave. Santa Rosa, CA 95404
Phone: 707.284.2380 Fax: 707.284.2387
rhowlettlaw@gmail.com

Attorneys for Petitioner
Turn Down the Lights

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF MONTEREY

TURN DOWN THE LIGHTS,

Petitioner,

v.

CITY OF MONTEREY,

Respondent.

_____/

Case No. M116731

Petitioner's Supplemental Brief in Support of Petition for Writ of Mandamus

Hon. Lydia M. Villarreal

Table of Contents

Table of Authorities

Case Law **Page**

Statutes

Other Authorities

Introduction

Petitioner Turn Down the Lights addresses the questions posed by the Court regarding adequate public notice for categorical exemptions. As applied to the facts of this case, the case law implementing CEQA's statutory authority confirms that the City's claimed defense of a failure to exhaust remedies is excused: there was no public notice of a categorical exemption for the City of Monterey's LED streetlight project until months after the fact. Petitioner also addresses the clearly applicable unusual circumstances exception.

Discussion

Question 1. Petitioner contends that the City Council failed to provide "public notice accurately describing the City Council's proposed action in November 2011." What does Petitioner contend would have constituted such notice? In what manner does Petitioner contend the City was required to provide such notice to the public? What is the authority for Petitioner's responses to these questions?

Governing Law. The question of adequate public notice in the CEQA context is raised in this case because the City of Monterey asserts as an affirmative defense a claim that Petitioner Turn Down the Lights failed to exhaust administrative remedies when it did not object to the adoption of a categorical exemption at the City Council hearing in November 2011. The City has the burden of proving its defense.

In opposition to that defense, Petitioner asserts that CEQA excuses petitioners from its exhaustion requirements

> as to any grounds for noncompliance with this division for which there was no public hearing or other opportunity for members of the public to raise those objections orally or in writing before approval of the project, or if the public agency failed to give the notice required by law.

(Pub. Resources Code, § 21177, subd (e), italics added.)

Because no particular public notice is required before an agency proceeds with a project approval based on exemption from CEQA, the relevant part of section 21177 subdivision (e) is within the second clause: there was no "*opportunity for members of the public to raise … objections orally or in writing before approval of the project.*" Adequate public notice was not required, but without it Turn Down the Lights members were not held to a requirement to exhaust administrative remedies.

This precise issue was addressed and resolved in *Defend Our Waterfront v. California State Lands Commission* (2015) 240 Cal.App.4th 570, 582-586 (*Defend Our Waterfront*). The First District Court of Appeal affirmed the trial court's ruling that a petitioner was not required to exhaust administrative remedies when the relevant public notice did not disclose that an agency proposed to take any CEQA action. (*Id.* at 583-84.) The petitioner filed a timely mandamus action after a Notice of Exemption was filed. (*Id.* at 579.) The trial court ruled that the agency's reliance on a CEQA exemption was unlawful (*id.* at 580), and its judgment was affirmed (*id.* at 587-591).

In *Defend Our Waterfront*, the State Lands Commission argued that the public received adequate notice of its intention to adopt a CEQA exemption. A staff report accessible via a hyperlink posted on its meeting agenda mentioned the CEQA exemption, although the posted agenda did not. The Court held that this was not adequate notice because "someone would have to take the additional steps of accessing and reviewing the report in order to learn that a

CEQA issue would be decided at the . . . meeting." (*Id.* at 584.) Going further, the Court held that even if a member of the petitioner group happened to somehow receive actual notice, "subdivision (e) does not provide that actual notice satisfies CEQA's notice requirement." (*Id.* at 584.) This ruling is consistent with *International Longshoremen's and Warehousemen's Union v. Board of Supervisors* (1981) 116 Cal.App.3d 265, 276-274, which held that notice of a CEQA action cannot be legally inferred by evidence of actual notice. Such a rule "would invite disputes" over the facts relevant to the notice.

In its briefing on the merits, the City argued that *Defend Our Waterfront* was incorrectly decided. (City Opposition, p. 24.) The City then referenced irrelevant cases with distinguishing facts, including cases simply stating that CEQA requires no particular process for public notice of an exemption. (*Ibid.*, citing *San Lorenzo Valley Community Advocates for Responsible Education v. San Lorenzo Valley Unified School District* (2006) 139 Cal.App.4th 1356, 1385-86; *Robinson v. City and County of San Francisco* (2012) 208 Cal.App.4th 950, 961.) The issue is the informational adequacy of the notice, not whether there is a specific template to be utilized by the agency. As *Defend Our Waterfront* makes evident, notice that does not even mention CEQA is inadequate to give notice of a CEQA determination.

The City also referenced *Tomlinson v. County of Alameda* (2012) 54 Cal.4th 281, 285, in which there was no dispute about the adequacy of notice specifically disclosing that a categorical exemption was proposed for adoption at an upcoming public hearing. And in *Citizens for a Green San Mateo v. San Mateo Community College District* (2014) 226 Cal.App.4th 1572, 1585, decided by the First District Court of Appeal, Division 4, the same division that decided *Defend Our Waterfront* a few months later, the complex facts involved the statute of limitations relative to amendment of a project approved years earlier on a negative declaration.

McQueen v. Board of Directors of the Mid-Peninsula Regional Open Space District (1988) 202 Cal.App.3d 1136 is also on point on the facts of the present case. *McQueen* considered whether a regional district's plan to acquire property contaminated with toxics was exempt from CEQA. It was known that the subject property contained toxic and hazardous substances; however, the district's Notice of Exemption described the purchase of surplus property, without mentioning this fact, which was the key CEQA issue. (*Id.* at 1144.) On appeal, the Sixth District rejected an affirmative defense that petitioner failed to exhaust remedies as to toxics, because the public notice was inaccurate and misleading:

> . . . [E]xhaustion of administrative remedies has not been required of CEQA petitioners who did not receive proper notice of administrative hearings. (Citations.) We consider petitioner's situation tantamount to a lack of notice due to the incomplete and misleading project description employed by the district. While there is evidence the district gave notice of the proposed property acquisition, there is no evidence that the notice mentioned the acquisition of toxic, hazardous substances. To apply the exhaustion requirement under these circumstances . . . would require the public to ferret out the true nature of the public agency's project and its possible environmental consequences.

(*Id.* at 1150-1151.)

A separate exception to the exhaustion of remedies requirement is where the petitioner is pursuing the lawsuit in the public interest and the petitioner did not appear in the administrative proceedings and had no notice of them. (*Environmental Law Fund, Inc. v. Town of Corte Madera* (1975) 49 Cal.App.3d 105, 114.) The exception is applicable here.

Exhaustion of Remedies is Excused In this Case Because the City Provided Inadequate Notice. In this case, the project notice was eight words on a City Council agenda: "Award Street and Tunnel Lighting Replacement Project Contract." (AR:44.) The notice did not violate CEQA, since no notice of a proposed categorical exemption was required, but was inadequate to provide a meaningful opportunity for public comment – lacked "proper notice" under *McQueen* (at p. 1150) – because:

- The agenda notice did not mention any proposed CEQA action.
- The project is a citywide action to install new LED streetlights throughout the city, with a different light that appears brighter and more intense than the sodium lights of a lower intensity brightness and a different glow than that in place for many years. The agenda notice statement of "replacement" implied "of like kind." Because the City did not intend to replace the lights with like kind, the notice should have stated that new LED streetlights would be installed citywide and would be an increase in perceived brightness.
- The agenda did not disclose that the new LED streetlights would be installed in the Historic District.
- The agenda notice described only the award of a contract, like the agency's purchase of property in *McQueen*, *supra*, 202 Cal.App.3d 1136.

The item should have said "Consider Awarding $1,000,000 Contract for Installation of LED Streetlights Different from the Existing Sodium Lights; Citywide including Historic Districts; CEQA Exemption Proposed." The City knows how to write a descriptive agenda item, as shown by the detailed

description of the next item on the City's agenda in November 2011:

> 8. Pass Ordinance to Print to Ban the Use of Plastic Single-Use Carry-Out Bags and Prohibit the Free Distribution of Recycled Paper Bags by Retail Establishments (Negative Declaration Proposed) (Plans & Public Works - 802-07)

(AR:45.)

Although the plastic bag issue was a "public appearance" item like the LED streetlight project, rather than a "public hearing," the agenda detailed what was proposed (an ordinance to ban plastic single-use carry-out bags and prohibit the free distribution of recycled paper bags) and to whom the ordinance applied (retail establishments and, by implication, their customers). Critically, the description disclosed the Council's intention to take a CEQA action: "Negative Declaration Proposed." [1] (*Ibid.*)

Applying the law to the facts of this case, the agenda notice for the LED streetlight project provided in November 2011 did not violate CEQA, because CEQA has no notice requirements for approval of projects via a claimed exemption. However, because the notice neither adequately described the LED streetlight project nor mentioned that the Council proposed to take any CEQA action, under the relevant case law, including *McQueen* and *Defend Our*

---

[1] The Court may recall that at the hearing in this case on May 11, 2016, counsel for the City argued that the plastic bag agenda item had attracted substantial public turnout at the Council meeting, and argued that turnout was evidence that the notice provided for "public appearance" items was sufficient. This had not been argued in the City's brief. Petitioner notes in addition to a much more detailed agenda item description, the City also published notice of the plastic bag agenda item in the newspaper. (Request for Judicial Notice filed concurrently with this brief, Exh. A.) Thus, in that matter, the City's provision of informative content in the agenda item description and also the City's publication of the notice encouraged public participation.

Waterfront, there was no meaningful "opportunity for members of the public to raise those objections orally or in writing before approval of the project." (Pub. Resources Code, § 21177, subd. (e.).)

The first notice provided to the concerned public that the City was relying on a categorical exemption to approve the LED streetlight project was a Notice of Exemption filed in February 2012, almost three months after the approval. (AR:1.)

As a separate and further matter, Petitioner Turn Down the Lights is pursuing this lawsuit in the public interest and neither Petitioner nor its members appeared at the administrative proceedings and had no notice of them. Thus, Turn Down the Lights meets the exception to the exhaustion of remedies requirement described in *Environmental Law Fund, Inc. v. Town of Corte Madera* , supra, 49 Cal.App.3d 105, 114.

The instant lawsuit is not barred by the doctrine of exhaustion of administrative remedies, and the City has failed to prove its affirmative defense on the record.

Question 2 The City Council meeting's agenda states, "public appearance items . . . do not require formal noticing as public hearings." What is the authority for this assertion? What are the requisite components for noticing "public appearance items" under applicable law? Did the City comply with these requirements? If so, how? What are the requisite components of "formal noticing" under applicable law? Did the City comply with these requirements? If so, how?

Monterey has what appears to be an ad hoc practice of treating some project approvals as "public appearance items" without holding "public

hearings." Petitioner is unaware of any such distinction in Monterey's Charter or City Code or in case law. Petitioner frankly looks forward to the City's response to this question, as Petitioner cannot find authority or precedent for discretionary governmental actions to *approve projects* (as opposed to study items or receive reports or similar activities) via "public appearance" as distinguished from "public hearings." Thus, the City's action to approve the LED streetlight project appears to require a public hearing subject to noticing requirements for such hearings under the Brown Act. (Gov. Code, §§ 65090, 65091.)

The Brown Act generally provides the manner of required notice of a public hearing, whether mailed to an affected property owner and surrounding property owners (Gov. Code, § 65091), published in at least one newspaper of general circulation at least 10 days prior to the hearing (*id.* at § 65091(a)(5)), or, if there is no such newspaper of general circulation, posted at least 10 days before the hearing in at least three public places (*id.* at § 65090(a)(b)). Also, "a local agency may give notice of the hearing in any other manner it deems necessary or desirable" (*id.* at §§ 65090(c), 65091(c)) and must also provide at least 10-day notice to persons that have filed written requests (*id.* at § 65092). Pursuant to the Brown Act, public hearing notices are required to include descriptive information:

> As used in this title, 'notice of a public hearing' means a notice that includes the date, time, and place of a public hearing, the identity of the hearing body or officer, a general explanation of the matter to be considered, and a general description, in text or by diagram, of the location of the real property, if any, that is the subject of the hearing.

(Gov Code, § 65094.) If the City had followed these public hearing notice procedures, the City would have mailed notice to James Bryant and also presumably would have mailed notice to every property owner in the City or published a notice in the newspaper. The City also would have explained the project in some detail – almost assuredly more than eight words, based on the City's published public hearing notices (RFJN, Exh. B)– and would have explained that the new LED streetlights were proposed to be installed City-wide, on all City streets.

A Monterey City Code section on the procedure and notice required for a public hearing is at AR:327.

> C. Notice. Notice of the hearing shall be given in the following manner (Ord 3326, 06/2003):
>
> 1. Mailed or Delivered Notice. At least 10 days prior to the hearing, notice shall be mailed to the applicant, affected agencies, anyone who made a request for a notice, and all owners of property 150 feet from each corner of the site and 300 feet of the boundaries of the site up and down both sides of the streets it fronts, as shown on the last equalized property tax assessment role.
>
> 2. Posted Notice. Notice shall be posted at the Department of Plans and Public Works and the Office of the City Clerk and on or adjacent to the project site.
>
> 3. Hearing Agenda. The public hearing agenda and packet of information shall be made available to the public in the Monterey Public Library three days prior to the public hearing.
>
> D. Contents of Notice. The notice of public hearing shall contain:
>
> 1. A description of the location of the development site and the purpose of the application;

> 2. A statement of the time, place, and purpose of the public hearing;
>
> 3. A reference to application materials on file for detailed information; and
>
> 4. A statement that any interested person or an authorized agent may appear and be heard.

(AR:327.) This section is for a use permit or variance; the notice and procedures for other public hearings is similar, as best Petitioner can determine.

Here, the City did not mail notice of the LED streetlight project agenda item to anyone, including James Bryant, who had requested notice for lighting projects in the historic district (AR:592).[2] As discussed, the City's agenda provided only a cursory and insufficient description of the item; this excused exhaustion of administrative remedies and is also, arguably, not in compliance with the Brown Act.

In this case, the only notice was the agenda description.

Question 3. Assuming arguendo that the Project were found to be within the scope of the "Class 2" categorical exemption, would the unusual circumstances exception [Guidelines, § 15300.2 (c)] apply? Why or why not?

Turn Down the Lights takes the position that the unusual circumstances exception would apply if this project were within the scope of the Class 2

---

[2] The Mayor had assured Mr. Bryant that lighting in the historic districts would be addressed carefully by the City, with several layers of review, when the Mayor said, "We will be working with the Historic Preservation Commission and the Architectural Review Committee, and perhaps a historic facilities consultant, to aid us in creating the best lighting for this [Friendly Plaza] and other locations." (AR 591).

categorical exemption. "A categorical exemption shall not be used for an activity where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances." (CEQA Guidelines, § 15300.2, subd. (c).)

Standard of Review. The California Supreme Court ruled in *Berkeley Hillside Preservation v. City of Berkeley* (2015) 60 Cal.4th 1086 *(Berkeley Hillside*) that consideration of the unusual circumstance exception requires two steps.

First, the substantial evidence standard applies to the determination of whether a project's circumstances are unusual. If so, the fair argument standard next applies to whether the project may have any significant environmental impacts. *Berkeley Hillside* directs that if the unusual circumstances exception is invoked, an agency must consider "evidence in its own files of potentially significant effects, regardless of whether that evidence comes from its own investigation, the proponent's submissions, a project opponent, or some other source." (*Berkeley Hillside*, *supra*, 60 Cal.4th 1086, 1103.)

> . . . [T]o establish the unusual circumstances exception, it is not enough for a challenger merely to provide substantial evidence that the project may have a significant effect on the environment . . . . On the other hand, evidence that the project will have a significant effect does tend to prove that some circumstance of the project is unusual. An agency presented with such evidence must determine, based on the entire record before it - including contrary evidence regarding significant environmental effects - whether there is an unusual circumstance . . . .

(*Id.*, p. 1105.)

> A party may also establish an unusual circumstance
>
> > . . . without evidence of an environmental effect, by showing that the project has some feature that distinguishes it from others in the exempt class, such as its size or location. In such a case . . . a party need only show a reasonable possibility of a significant effect due to that unusual circumstance.
> >
> > Alternatively . . . a party may establish an unusual circumstance by evidence that a project will have a significant environmental effect. That evidence, if convincing, necessarily also establishes that an activity 'will have a significant effect on the environment due to unusual circumstances.'

(*Berkeley Hillside*, *supra*, 60 Cal.4th at 1103, italics added.)

The Supreme Court distinguished between evidence that a project will have a significant effect, which makes it unusual, with evidence that it may have a significant effect, which may not be unusual. (*Id.* at 1105-1110.) The latter scenario requires additional evidence that a circumstance is unusual, such as size or location. (*Id.* at 1103.) The Court also directed that a finding of unusual circumstances is to be reviewed under the "substantial evidence prong" of Public Resource Code section 21168.5. (*Id.* at 1114.) "Agencies must weigh the evidence and determine 'which way the scales tip' . . . and reviewing courts . . . must affirm that finding if there is any substantial evidence . . . to support it." (*Ibid.*)

Finally, the *Berkeley Hillside* majority indicated that its "approach is consistent with the concurring opinion's statement of its central proposition: When it is shown 'that a project will have a significant environmental effect, it

necessarily follows that the project presents unusual circumstances.'" (*Id.* at 1105.) The concurring opinion by Liu and Werdegar, J.J., consistently pointed out that "[e]ven under the cumbersome rules set forth today, it is hard to imagine that any court, upon finding a reasonable possibility of significant effects under the fair argument standard, will ever be compelled to find no unusual circumstances and . . . uphold the applicability of a categorical exemption." (*Id.* at 1134.)

The record in this case discloses no evidence that the City considered whether or not there was substantial evidence of unusual circumstances, as required by *Berkeley Hillside*. In fact, the evidence is manifest.

Evidence of Unusual Circumstances. The Supreme Court instructs that "conditions in the vicinity" of the project are relevant to the determination of whether a case presents "typical or unusual" circumstances relevant to the categorical exemption exception. (*Berkeley Hillside*, *supra*, 60 Cal.4th at 1119.) Monterey assuredly places this case into the latter category; according to the official City statement, "Monterey is the most historic city in California." (AR:523; see Opening Brief at p. 3; AR:737-753; 759-823.) The Monterey Old Town Historic District is honored with listing as a National Historic Landmark. (AR:451; 723; 540-541 [maps].) Downtown Monterey retains the most significant collection of properties and adobes in California dating from the Mexican Colonial period. (AR:451; 753-756.)

As petitioner Turn Down the Lights discussed in its merits briefs, City staff assured the City Council that a different light fixture would be used in the Historic District (Opening Brief at p. 8; Reply Brief at p. 7), but that turned out to be untrue:

COUNCILMEMBER SELFRIDGE: In our historic district, will the lights look like that? Or will they be somehow in a correct format?

MR. HELMS: They won't look -- they won't look like that. There is a separate grant for decorative lights, and they'll look exactly the way they look now.

(AR:20.)

The evidence in the record documenting the unique environmental setting for the LED streetlight project is contained in the City's own plans and planning documents:

- Monterey is "one of the most historic cities in the western United States" (AR:451).
- "Monterey is the most historic city in California." (AR 523)
- "Historic Monterey is unique in that it has an identified architectural style native to the City." (AR:570 [Downtown Plan].)
- "Several plan policies address the protection of existing scenic vistas in the Planning Area. The Urban Design Element policies for Shoreline and Bay (policies a.6, a.7, and a.9) call for protection and enhancement of views to and from specific unique shoreline environments (i.e. San Carlos Beach and Cannery Row)." (AR:454.)
- " 'Preservation and reinforcement of Monterey's historic character' is the first goal of the Economic Element of the City's General Plan. A significant number of Monterey's key economic activities occur in

historic areas, are dependent on the historic ambiance of Monterey and would be diminished if that ambiance is compromised." (AR:482.)

- "The Monterey Peninsula has a long and storied history as a haven for artists, especially painters drawn to the area's unique landscape." (AR:767 [National Historic Landmark District and Downtown Area - Context Reconnaissance Survey].)

- ". . . [T]he area's unique coastal scenery" (*Ibid.*)

- "Many of the artists who settled in Monterey were attracted to the city's unique building stock." (AR:791.)

- Prominent local artist Myron Oliver "so freely poured out his rich resources toward the preservation of Monterey's historic and esthetic uniqueness." (AR:795) Oliver was an early owner of Casa de La Torre (AR:788, 795), the historic adobe (AR:409; 769 [photo]) later occupied by James Bryant (AR:592), member of Turn Down the Lights, who carried on Oliver's tradition of preserving Monterey's architectural and historic resources.

- The City's proposed addition of lighting to Friendly Plaza, a small park in the historic district, was of significant public interest and controversy. The City's Historic Preservation Commission had two meetings in September 2009 and October 2009. The City noticed a formal public hearing for both meetings (AR:613-614 [Sept. 2009]; 631-632 [Oct. 2009]), and posted the site (AR:610-612) and notified property owners in the area (AR:593-614 [Sept. 2009]; 616-634 [Oct. 2009]). Public commenters included Mr. Bryant (AR:593-594; 616-

617), Alliance of Monterey Area Preservationists (AR:595-596), and the Monterey Institute for International Studies (AR:590).

- "Wooded Canyons. Most of Monterey's neighborhoods sit on various gently sloping mesas, and are defined by and insulated from other neighborhoods by wooded canyons. These canyons are wonderful natural barriers, which limit neighborhood size and have allowed neighborhoods to grow with unique characteristics and architectural styles." (AR:432 [General Plan].)

Even among the diverse and eclectic collection of cities in California, the City of Monterey is unique, and its landmark Old Town National Historic Landmark District is especially so.

The standard for unusual circumstances is well met.

The Record Contains a Fair Argument of Significant Impacts. Under *Berkeley Hillside*, CEQA's unique "fair argument" standard applies to the question of whether a project proposed for a categorical exemption meets the unusual circumstances exception vis-à-vis evidence of significant environmental effects. (*Berkeley Hillside*, *supra*, 60 Cal.4th at 1119.) The CEQA Guidelines recognize that a project that may "create a new source of substantial light or glare which would adversely affect day or nighttime views" may have a significant environmental impact. (Guidelines, App. G, § I, subd. (d).) Experts refer to glare as "the most annoying and safety related aspect of light pollution." (AR:967.) The record discussed in Petitioner's briefs on the merits documents a fair argument of environmental impacts:

> Residents confirmed that the new, much stronger lights were harsh and glaring; were painful to look at and

> obtrusive; created unsafe driving situations; detracted from the quality of life in the City; shone through private windows on private property; and impacted the historic qualities of the Old Town Historic District. (E.g., AR:681 [complaints that lights are too bright]; 682 [lights are bright and cause glare, trespass into homes]; 683 [lights shine through windows]; 685 [excessive light, ruins night sky]; 693 [lights impact quality of life]; 695 [lights negatively impact the landmark district]; 696 [lights are too bright]; 700-701 [light is "painful"; City-added light "shields" don't work]; 706-708 [bright lights intrude into yard, are unsafe, are visible from block away,]; 711, 865 [lights impair sleep]; 874-875 [newspaper articles]; see 877-884, 901, 911-912, 921-1005.)

(Opening Brief at p. 9, see also pp. 9-11, 21.)

The unusual circumstances exception applies to the LED streetlight project.

Conclusion

Turn Down the Lights thanks the Court for the opportunity to file this supplemental brief. Because the City did not give adequate notice of its intention to approve the citywide LED streetlight project, nor that it planned to rely on a categorical exemption, Turn Down the Lights is excused from exhaustion of remedies. The project is not encompassed within the claimed categorical exemption. Even if the project fit within the scope of the exemption, the exemption is not applicable due to unusual circumstances.

Turn Down the Lights respectfully requests the Court grant the Petition for Writ of Mandate and issue a peremptory writ in the public interest. To comply with CEQA, the City of Monterey must set aside its approval of the LED streetlight project and the categorical exemption, prepare an appropriate environmental document, and adopt feasible mitigation measures and alternatives to reduce significant impacts.

September 12, 2016

Respectfully submitted,

STAMP|ERICKSON

by _____

Molly Erickson

BRANDT-HAWLEY LAW GROUP
PROVENCHER & FLATT, LLP

by _____

Susan Brandt-Hawley
Rachel Mansfield-Howlett

Attorneys for Petitioner Turn Down the Lights