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16 Attorneys for Proposed Intervenor  
International Code Council, Inc.

17 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
18 COUNTY OF SACRAMENTO

19 Public.Resource.Org., Inc.,  
20 Petitioner,  
21 vs.  
22 California Office of Administrative Law, and  
23 the California Building Standards  
24 Commission,  
25 Respondents.

Case No. 34-2021-80003612  
**DEFENDANTS' NOTICE OF HEARING  
AND MOTION FOR J. KEVIN FEE TO  
APPEAR AS COUNSEL PRO HAC VICE;  
MEMORANDUM OF POINTS &  
AUTHORITIES; VERIFIED  
APPLICATION OF J. KEVIN FEE TO  
APPEAR AS COUNSEL PRO HAC VICE;  
DECLARATION OF LOUIS Y. LEE**  
Date: August 27, 2021 BY FAX  
Time: 10:00 a.m.  
Dept.: 27  
Judge: Hon. Steven M. Gevercer

Action Filed: March 17, 2021

FILED  
Superior Court Of California,  
Sacramento  
08/03/2021  
tcrowther  
By \_\_\_\_\_, Deputy  
Case Number:  
34-2021-80003612

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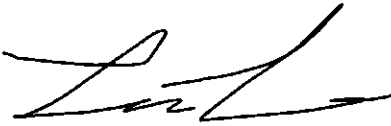
**TO ALL PARTIES AND THEIR COUNSEL OF RECORD:**

PLEASE TAKE NOTICE that on August 27, 2021, at 10:00 a.m. in Department 27 of the California Superior Court, County of Sacramento, located at Gordon D. Schaber Sacramento County Courthouse, 720 9th Street, Sacramento, CA 95814, Proposed Intervenor International Code Council, Inc. will move for an order granting the application of J. Kevin Fee to appear as counsel *pro hac vice* ("Motion"). This Motion is made on the grounds that Proposed Intervenor International Code Council, Inc. have engaged J. Kevin Fee in connection with this action and the proposed representation comports with the requirements of Rule 9.40 of the California Rules of Court.

This Motion is based on this Notice and on the attached Memorandum of Points and Authorities in support thereof, attached Verified Application of J. Kevin Fee, attached Declaration of Louis Y. Lee, all files and records in this action, and any further evidence or argument that the Court may properly receive at or before the hearing on this Motion.

DATED: August 3, 2021

MORGAN, LEWS & BOCKIUS LLP

By:   
\_\_\_\_\_  
LOUIS Y. LEE  
Attorneys for Proposed Intervenor International Code Council, Inc.

1 **MEMORANDUM OF POINTS & AUTHORITIES**

2 It is proper for J. Kevin Fee to appear in this action as counsel *pro hac vice* pursuant to  
3 Rule 9.40(a) of the California Rules of Court, which state, in part, that:

4 A person who is not a member of the State Bar of California but  
5 who is a member in good standing of and eligible to practice before  
6 the bar of any United States court or of the highest court in any state,  
7 territory or insular possession of the United States, and who has  
8 been retained to appear on a particular cause pending in a court of  
9 this state, may in the discretion of such court be permitted upon  
written application to appear as counsel *pro hac vice*, provided that  
an active member of the State Bar of California is associated as  
attorney of record.

10 A party's right to appear by counsel of its own choice, including counsel appearing *pro hac*  
11 *vice*, is a right of paramount importance. *Cornish v. Superior Court* (1990) 209 Cal. App. 3d 467,  
12 478. "That right should not be abrogated absent some indication that the adverse party will be  
13 unfairly disadvantaged." *Id.* Only "extreme circumstances" can possibly justify denial of a *pro*  
14 *hac vice* application. *Magee v. Superior Court* (1973) 8 Cal. 3d 949, 953.

15 It is appropriate that this application be heard and granted, as Proposed Intervenor  
16 International Code Council, Inc. expect that Mr. Fee's participation and appearance may be  
17 required on their behalf from time to time throughout the course of this action. Proper and timely  
18 notice of this application has been given to all parties that have appeared in this cause and upon  
19 the State Bar of California at its San Francisco office. The required fee has also been sent to the  
20 State Bar of California.


21 As set forth in the attached Verified Application of J. Kevin Fee and supporting  
22 Declaration of Louis Y. Lee, the requirements of California Rule of Court 9.40 have been met  
23 with respect to this motion. Accordingly, Proposed Intervenor International Code Council, Inc.  
24 respectfully request that J. Kevin Fee be permitted to appear as counsel *pro hac vice*, in  
25 association with the law firm of Morgan, Lewis & Bockius LLP, attorneys of record for Proposed  
26 Intervenor International Code Council, Inc. in this action.

1 DATED: June 28, 2021

MORGAN, LEWS & BOCKIUS LLP

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By: 

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LOUIS Y. LEE

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Attorneys for Proposed Intervenor International Code  
Council, Inc.

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1 **VERIFIED APPLICATION OF J. KEVIN FEE**  
2 **TO APPEAR AS COUNSEL *PRO HAC VICE***

3 I, J. Kevin Fee, hereby respectfully apply to the Court, pursuant to Rule 9.40 of the  
4 California Rules of Court, for permission to appear and participate in the above-captioned action  
5 on behalf of Proposed Intervenor International Code Council, Inc., by whom I have been retained.  
6 I have personal knowledge of the facts stated below and, if called upon, could and would testify  
7 competently thereto. I declare as follows:

8 1. I am a partner in the law firm of Morgan, Lewis & Bockius LLP, whose offices are  
9 located at 1111 Pennsylvania Ave. NW, Washington, D.C. 20004-2541, whose general telephone  
10 line is 202-739-3000, and whose facsimile is 202-739-3001. I reside at 8008 Ellingson Drive,  
11 Chevy Chase, MD 20815.

12 2. I am a member in good standing of the Bar of the New York State Supreme Court,  
13 and eligible to practice before the courts of that state. I was admitted to the Bar of New York  
14 State Supreme Court on October 7, 1996. I am a member in good standing of the Bar of the  
15 Supreme Court of Pennsylvania and eligible to practice before the courts of that state. I was  
16 admitted to the Supreme Court of Pennsylvania on June 19, 1998. I am also a member in good  
17 standing of the Bar of the Supreme Court of Virginia, and eligible to practice before the courts of  
18 that state. I was admitted to the Bar of the Supreme Court of Virginia on April 13, 2005. I am  
19 also a member in good standing of the Bar of the District of Columbia Court of Appeals, and  
20 eligible to practice before the courts of that District. I was admitted to the Bar of the District of  
21 Columbia Court of Appeals on September 9, 2005.

22 3. I am also admitted to practice in the following federal courts:

Court	Date of Admission
U.S. Supreme Court	8/23/2019
U.S. Court of Appeals for the Third Circuit	12/10/1998
U.S. Court of Appeals for the Sixth Circuit	10/21/2004
U.S. Court of Appeals for the Federal Circuit	11/17/2005
U.S. Court of Appeals for the Fourth Circuit	5/15/2012
U.S. Court of Appeals for the Second Circuit	6/19/2012
U.S. Court of Appeals for the District of Columbia	8/31/2017
U.S. Court of Appeals for the Tenth Circuit	2/18/2019
U.S. District Court for the Eastern District of New York	11/4/1996
U.S. District Court for the Southern District of New York	11/4/1996

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Court	Date of Admission
US District Court for the Eastern District of Pennsylvania	7/21/1998
U.S. District Court for the Northern District of Indiana	4/12/2002
U.S. District Court for the District of Columbia	4/3/2006
U.S. District Court for the Western District of New York	12/9/2011
U.S. District Court for the Northern District of New York	2/25/2013
U.S. District Court for the Eastern District of Virginia	5/15/2015
U.S. District Court for the Western District of Virginia	5/26/2015
U.S. Court of Federal Claims	2/10/2015

I am currently a member in good standing in all of the foregoing courts.

4. I am not currently suspended or disbarred in any court.

5. I have been retained as counsel in this action by Proposed Intervenor International Code Council, Inc., in association with Louis Y. Lee. Mr. Lee is an active member in good standing of the State Bar of California (Bar No. 315753), admitted to practice before this Court, and an attorney of record for Proposed Intervenor International Code Council, Inc. in this action. Mr. Lee's business address and telephone number are as follows: Morgan, Lewis & Bockius LLP, One Market, Spear Street Tower, San Francisco, California 94105-1126, (415) 442-1000.

6. I am not a resident of California, nor am I regularly employed in California.

Further, I am not regularly engaged in substantial business, professional, or other activities in the State of California.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that I executed this declaration on this 22nd day of June 2021, at Chevy Chase, Maryland.



\_\_\_\_\_  
J. Kevin Fee

1 **DECLARATION OF LOUIS Y. LEE**

2 I, Louis Y. Lee, declare:

3 1. I am an active member in good standing of the State Bar of California (Bar No.  
4 315753) and admitted to practice before this Court. I am an attorney at Morgan, Lewis & Bockius  
5 LLP, counsel of record for Proposed Intervenor International Code Council, Inc. in this action. I  
6 submit this Declaration in support of the Verified Application of J. Kevin Fee to appear as counsel  
7 *pro hac vice* on behalf of Proposed Intervenor International Code Council, Inc. in this action. I  
8 have personal knowledge of the facts stated below and, if called upon, could and would testify  
9 competently thereto.

10 2. I consent to the association of J. Kevin Fee as counsel for Proposed Intervenor  
11 International Code Council, Inc. in this action.

12 3. Pursuant to California Rule of Court 9.40, a copy of Mr. Fee's Verified Application  
13 and the notice of the hearing on the motion for Mr. Fee to appear as counsel *pro hac vice* have  
14 been served via mail on all parties who have appeared in this action (and no parties have opposed  
15 Mr. Fee's application) and to the State Bar of California at its San Francisco office. In addition,  
16 payment of the required \$50.00 filing fee has been sent to the State Bar of California at its San  
17 Francisco address.

18 I declare under penalty of perjury under the laws of the State of California that the  
19 foregoing is true and correct and that I executed this declaration on June 28, 2021 at Dublin,  
20 California.

21   
22 \_\_\_\_\_  
23 Louis Y. Lee

1 **PROOF OF SERVICE**

2 I, Davace Chin, am a citizen of the United States and reside in San Francisco County,  
3 California. My business address is Morgan, Lewis & Bockius, LLP, One Market, Spear Street  
4 Tower, San Francisco, CA 94105. I am over the age of 18 years and not a party to the above-  
entitled action.

5 On August 3, 2021, I deposited with Federal Express, a true and correct copy of the within  
document to the addresses below:

6 NOTICE OF HEARING AND MOTION FOR J. KEVIN FEE TO APPEAR AS  
7 COUNSEL PRO HAC VICE; MEMORANDUM OF POINTS AND AUTHORITIES;  
8 VERIFIED APPLICATION OF J. KEVIN FEE TO APPEAR AS COUNSEL PRO HAC  
VICE ADMISSION; DECLARATION OF LOUIS Y. LEE

9 Matthew Caplan, Joseph Mornin and  
Ryan O'Hollaren  
10 COOLEY LLP  
101 California Street, Fifth Floor  
San Francisco, CA 94111

Kelly Klaus, Bryan Heckenlively and  
Rose Leda Ehler  
MUNGER, TOLLES & OLSON LLP  
560 Mission Street, 27th Floor  
San Francisco, CA 94105

11 Matthew Rodriquez  
12 CALIFORNIA DEPARTMENT OF JUSTICE  
1515 Clay Street, Suite 2000  
13 Oakland, CA 94612

Michelle Mitchell, Keith Wurster and  
Laura Randles-Little  
CALIFORNIA DEPARTMENT OF JUSTICE  
1300 I Street, 10th Floor  
Sacramento, CA 95814  
Pro Hac Vice Admissions

14  
15 THE STATE BAR OF CALIFORNIA  
180 Howard Street  
16 San Francisco, CA 94105

17 Following ordinary business practices, the envelope was sealed and placed for collection  
18 by Federal Express on this date, and would, in the ordinary course of business, be retrieved by  
Federal Express for overnight delivery on this date. I declare under penalty of perjury under the  
19 laws of the State of California that the above is true and correct.

20 I declare under penalty of perjury under the laws of the State of California that the above is  
true and correct. Executed on August 3, 2021, at San Francisco, California.

21  
22   
23 \_\_\_\_\_  
Davace Chin