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8 TOWN OF APPLE VALLEY

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA

10 COUNTY OF SAN BERNARDINO

11
12 LEANE LEE,

13 Petitioner,

14 v.

15 TOWN OF APPLE VALLEY, a Municipal
16 Corporation,

17 Respondent.

Case No. CIVDS 1507221

Judge: David Cohn

**TOWN OF APPLE VALLEY'S ANSWER
TO FIRST AMENDED PETITION FOR
WRIT OF MANDATE**

[Deemed verified pursuant to Code of Civil
Procedure Section 446]

First Amended Petition Filed: July 20, 2015

ANSWER TO FIRST AMENDED PETITION FOR WRIT OF MANDATE

Respondent Town of Apple Valley (the "Town"), hereby submits the following Answer to the First Amended Petition for Writ of Mandate, filed July 20, 2015 ("FAP"), by Petitioner Leane Lee ("Petitioner.")

1. In answering Paragraph 1, the Town admits all allegations set forth therein.

2. In answering Paragraph 2, the Town admits Petitioner made a Public Records Act ("PRA") request to the Town. Except as expressly admitted, the Town denies the remaining allegations set forth in Paragraph 2.

3. In answering Paragraph 3, the Town does not have sufficient knowledge or information to form a belief as to the truth of the allegations set forth therein, and on that basis denies all allegations in Paragraph 3.

4. In answering Paragraph 4, the Town does not have sufficient knowledge or information to form a belief as to the truth of the allegations set forth therein and on that basis denies all allegations in Paragraph 4.

5. In answering Paragraph 5, the Town admits the allegations set forth therein.

6. In answering Paragraph 6, the Town does not have sufficient knowledge or information to form a belief as to the truth of the allegations set forth therein, and on that basis denies all allegations in Paragraph 6.

7. In answering Paragraph 7, the Town does not have sufficient knowledge or information to form a belief as to the truth of the allegations set forth therein, and on that basis denies all allegations in Paragraph 7.

8. In answering Paragraph 8, the Town admits that the CPRA speaks for itself.

9. In answering Paragraph 9, the Town does not have sufficient knowledge or information to form a belief as to the truth of the allegations set forth therein, and on that basis denies all allegations in Paragraph 9.

10. In answering Paragraph 10, the allegations contained therein are legal conclusions to which no response is required. To the extent an answer may be required, the Town admits that the San Bernardino County Superior Court is the proper venue for this action.

- 1 11. In answering Paragraph 11, the Town admits the allegations set forth therein.
- 2 12. In answering Paragraph 12, the Town admits that Government Code section 6250
- 3 speaks for itself.
- 4 13. In answering Paragraph 13, the Town admits that the California Constitution
- 5 speaks for itself.
- 6 14. In answering Paragraph 14, the Town admits that Government Code section 6253
- 7 speaks for itself.
- 8 15. In answering Paragraph 15, the Town admits that Government Code section 6253
- 9 speaks for itself.
- 10 16. In answering Paragraph 16, the Town admits that Government Code section 6253
- 11 speaks for itself.
- 12 17. In answering Paragraph 17, the Town admits that Government Code sections 6253
- 13 and 6255 speak for themselves.
- 14 18. In answering Paragraph 18, the Town admits that the California Constitution
- 15 speaks for itself.
- 16 19. In answering Paragraph 19, the Town admits the allegations set forth therein.
- 17 20. In answering Paragraph 20, the Town admits Petitioner made a PRA request to the
- 18 Town as set forth in Exhibit A, previously identified, and that said document speaks for itself.
- 19 Except as expressly admitted herein, the Town denies all other allegations in Paragraph 20.
- 20 21. In answering Paragraph 21, the Town admits the allegations set forth therein.
- 21 22. In answering Paragraph 22, the Town admits it provided written acknowledgement
- 22 of Petitioner's PRA request as set forth in Exhibit B, previously identified and that said document
- 23 speaks for itself. Except as expressly admitted herein, the Town denies all other allegations in
- 24 Paragraph 22.
- 25 23. In answering Paragraph 23, the Town admits Petitioner made a PRA request to the
- 26 Town as set forth in Exhibit A, previously identified, and that said document speaks for itself.
- 27 Except as expressly admitted herein, the Town denies all other allegations in Paragraph 23.
- 28 24. In answering Paragraph 24, the Town admits Petitioner made a PRA request to the

1 Town as set forth in Exhibit A, previously identified, and that said document speaks for itself.
2 Except as expressly admitted herein, the Town denies all other allegations in Paragraph 24.

3 25. In answering Paragraph 25, the Town admits Petitioner made a PRA request to the
4 Town as set forth in Exhibit A, previously identified, and that said document speaks for itself.
5 Except as expressly admitted herein, the Town denies all other allegations in Paragraph 25.

6 26. In answering Paragraph 26, the Town admits Petitioner made a PRA request for
7 public records from the Town as set forth in Exhibit A, previously identified, and that said
8 document speaks for itself. Except as expressly admitted herein, the Town denies all other
9 allegations in Paragraph 26.

10 27. In answering Paragraph 27, the Town denies each and every allegation set forth
11 therein.

12 28. In answering Paragraph 28, the Town admits it responded to Petitioner's PRA
13 request on May 11, 2015 as set forth in Exhibit C and that said document speaks for itself.
14 Except as expressly admitted herein, the Town denies all other allegations in Paragraph 28.

15 29. In answering Paragraph 29, the Town admits it responded to Petitioner's PRA
16 request on May 11, 2015 as set forth in Exhibit C, previously identified, and that said document
17 speaks for itself. Except as expressly admitted herein, the Town denies all other allegations in
18 Paragraph 29.

19 30. In answering Paragraph 30, the Town admits it responded to Petitioner's PRA
20 request on May 11, 2015 as set forth in Exhibit C, previously identified, and that said document
21 speaks for itself. Except as expressly admitted herein, the Town denies all other allegations in
22 Paragraph 30.

23 31. In answering Paragraph 31, the Town admits it responded to Petitioner's PRA
24 request on May 11, 2015 as set forth in Exhibit C, previously identified, and that said document
25 speaks for itself. Except as expressly admitted herein, the Town denies all other allegations in
26 Paragraph 31.

27 32. In answering Paragraph 32, the Town admits it responded to Petitioner's PRA
28 request on May 11, 2015 as set forth in Exhibit C, previously identified, and that said document

1 speaks for itself. Except as expressly admitted herein, the Town denies all other allegations in
2 Paragraph 32.

3 33. In answering Paragraph 33, the Town admits it responded to Petitioner's PRA
4 request on May 11, 2015 as set forth in Exhibit C, previously identified, and that said document
5 speaks for itself. Except as expressly admitted herein, the Town denies all other allegations in
6 Paragraph 33.

7 34. In answering Paragraph 34, the Town admits it provided records responsive to
8 Petitioner's requests. Except as expressly admitted herein, the Town denies all other allegations
9 in Paragraph 34.

10 35. In answering Paragraph 35, the Town denies each and every allegation set forth
11 therein.

12 36. In answering Paragraph 36, the Town denies each and every allegation set forth
13 therein.

14 37. In answering Paragraph 37, the Town does not have sufficient knowledge or
15 information to form a belief as to the truth of the allegations set forth therein, and on that basis
16 denies all allegations in Paragraph 37.

17 38. In answering Paragraph 38, the Town denies each and every allegation set forth
18 therein.

19 39. In answering Paragraph 39, the Town denies each and every allegation set forth
20 therein.

21 40. In answering Paragraph 40, the Town admits the Town Attorney entered into an
22 agreement with the 20/20 Network, and that the contract calls for a monthly payment. Except as
23 expressly admitted herein, the Town objects to Petitioner's characterization of facts as stated in
24 Paragraph 40, and denies all remaining allegations in Paragraph 40.

25 41. In answering Paragraph 41, the Town denies it implied the contract did not exist.
26 The Town admits Petitioner made a PRA request to the Town as set forth in Exhibit A, previously
27 identified, and that said document speaks for itself. The Town does not have sufficient
28 knowledge or information to form a belief as to the truth of the remaining allegations set forth

1 therein, and on that basis denies all remaining allegations in Paragraph 41.

2 42. In answering Paragraph 42, the Town admits Exhibit E is a portion of the 20/20
3 Network Contract. The Town does not have sufficient knowledge or information to form a belief
4 as to the truth of the remaining allegations set forth therein, and on that basis denies all
5 allegations in Paragraph 42.

6 43. In answering Paragraph 43, the Town admits Exhibit E, previously identified, is a
7 portion of the 20/20 Network Contract and that said document speaks for itself. The Town
8 otherwise denies all of the allegations of Paragraph 43.

9 44. In answering Paragraph 44, the Town admits Exhibit E, previously identified, is a
10 portion of the 20/20 Network Contract and that said document speaks for itself. Except as
11 expressly admitted herein, the Town denies all remaining allegations in Paragraph 44.

12 45. In answering Paragraph 45, the Town denies each and every allegations set forth
13 therein.

14 46. In answering Paragraph 46, the Town denies each and every allegations set forth
15 therein.

16 47. In answering Paragraph 47, the Town admits Exhibit F is a copy of the True North
17 contract and that said document speaks for itself. The Town further admits it provided a copy of
18 the 2011 True North contract to Petitioner in response to her PRA Request.

19 48. In answering Paragraph 48, the Town admits Exhibit F is a copy of the 2011 True
20 North contract and that said document speaks for itself.

21 49. In answering Paragraph 49, the Town admits Exhibit F is a copy of the 2011 True
22 North contract and that said document speaks for itself. The Town does not have sufficient
23 knowledge or information to form a belief as to the truth of the remaining allegations as set forth
24 therein, and on that basis denies all remaining allegations set forth therein.

25 50. In answering Paragraph 50, the Town denies each and every allegation set forth
26 therein.

27 51. In answering Paragraph 51, the Town does not have sufficient information at this
28 time to form a belief as to the truth of the allegations contained therein, and on that basis denies

1 the allegations in Paragraph 51.

2 52. In answering Paragraph 52, the Town admits Exhibit G is a copy of the True North
3 survey and that said document speaks for itself.

4 53. In answering Paragraph 53, the Town admits Exhibit G is a copy of the True North
5 survey and that said document speaks for itself.

6 54. In answering Paragraph 54, the Town does not have sufficient information at this
7 time to form a belief as to the truth of the allegations contained therein, and on that basis denies
8 the allegations in Paragraph 54.

9 55. In answering Paragraph 55, the Town admits Exhibit G is a copy of the True North
10 survey and that said document speaks for itself. Except as expressly admitted herein, the Town
11 denies all remaining allegations set forth in Paragraph 55.

12 56. In answering Paragraph 56, the Town denies each and every allegation contained
13 therein.

14 57. In answering Paragraph 57, the Town denies each and every allegation contained
15 therein

16 58. In answering Paragraph 58, the Town asserts that to the extent it possess any
17 responsive records regarding the True North agreement, such records are exempt from disclosure
18 based on the attorney-client communication and/or work product privilege(s). Otherwise, the
19 Town denies each and every remaining allegation in Paragraph 58.

20 59. In answering Paragraph 59, the Town re-alleges its responses to paragraphs 1
21 through 58 of the First Amended Petition.

22 60. In answering Paragraph 60, the Town does not have sufficient knowledge or
23 information to form a belief as to the allegations set forth therein, and on that basis denies all
24 allegations in Paragraph 60.

25 61. In answering Paragraph 61, the Town admits that the CPRA speaks for itself.
26 Otherwise, the Town denies all of the allegations of Paragraph 61.

27 62. In answering Paragraph 62, the Town admits the allegations set forth therein.

28 63. In answering Paragraph 63, the Town does not have sufficient knowledge or

1 information to form a belief as to the allegations set forth therein, and on that basis denies all
2 allegations in Paragraph 63.

3 64. In answering Paragraph 64, the Town re-alleges its responses to paragraphs 1
4 through 63 of the First Amended Petition.

5 65. In answering Paragraph 65, the Town admits Petitioner made a PRA request to the
6 Town as set forth in Exhibit A, previously identified, and that said document speaks for itself.
7 Otherwise, the Town denies all of the remaining allegations stated in Paragraph 65.

8 66. In answering Paragraph 66, the Town admits it responded to Petitioner's PRA
9 request on May 11, 2015 as set forth in Exhibit C and that said document speaks for itself.

10 67. In answering Paragraph 67, the Town admits it responded to Petitioner's PRA
11 request on May 11, 2015 as set forth in Exhibit C and that said document speaks for itself.
12 Except as expressly admitted herein, the Town denies each and every remaining allegation in
13 Paragraph 67.

14 68. In answering Paragraph 68, the Town denies each and every allegation set forth
15 therein.

16 69. In answering Paragraph 69, the Town denies each and every allegation set forth
17 therein.

18 70. In answering Paragraph 70, the Town denies each and every allegation set forth
19 therein.

20 71. In answering Paragraph 71, the Town admits it responded to Petitioner's PRA
21 request on May 11, 2015 as set forth in Exhibit C and that said document speaks for itself.

22 72. In answering Paragraph 72, the Town denies each and every allegation set forth
23 therein.

24 73. In answering Paragraph 73, the Town admits it responded to Petitioner's PRA
25 request on May 11, 2015 as set forth in Exhibit C and that said document speaks for itself. The
26 Town also admits that the CPRA speaks for itself. Otherwise, the Town is without sufficient
27 information or belief as to the truth of the remaining allegations in Paragraph 73 and on that basis
28 denies them.

1 74. In answering Paragraph 74, the Town does not have sufficient knowledge or
2 information to form a belief as to the allegations set forth therein, and on that basis denies all
3 allegations in Paragraph 74.

4 75. In answering Paragraph 75, the Town does not have sufficient knowledge or
5 information to form a belief as to the allegations set forth therein, and on that basis denies all
6 allegations in Paragraph 75.

7 76. In answering Paragraph 76, the Town re-alleges its responses to paragraphs 1
8 through 75 of the First Amended Petition.

9 77. In answering Paragraph 77, the Town admits it responded to Petitioner's PRA
10 request on May 11, 2015 as set forth in Exhibit C and that said document speaks for itself. The
11 Town further admits that it asserted the attorney-client and/or work product privileges.
12 Otherwise, the Town denies the remaining allegations of Paragraph 77.

13 78. In answering Paragraph 78, the allegation contained therein is a legal conclusion to
14 which no response is required. To the extent that an answer may be required, the Town denies all
15 allegations set forth in Paragraph 78.

16 79. In answering Paragraph 79, the allegation contained therein is a legal conclusion to
17 which no response is required. To the extent that an answer may be required, the Town denies all
18 allegations set forth in Paragraph 79.

19 80. In answering Paragraph 80, the Town denies each and every allegation contained
20 therein.

21 81. In answering Paragraph 81, the Town denies each and every allegation contained
22 therein.

23 82. In answering Paragraph 82, the Town does not have sufficient knowledge or
24 information to form a belief as to the allegations set forth therein, and on that basis denies all
25 allegations in Paragraph 82.

26 83. In answering Paragraph 83, the Town denies each and every allegation set forth
27 therein.

28 84. In answering Paragraph 84, the Town does not have sufficient knowledge or

1 information to form a belief as to the allegations set forth therein, and on that basis denies all
2 allegations in Paragraph 84.

3 85. In answering Paragraph 85, the Town does not have sufficient knowledge or
4 information to form a belief as to the allegations set forth therein, and on that basis denies all
5 allegations in Paragraph 85.

6 86. In answering Paragraph 86, the Town does not have sufficient knowledge or
7 information to form a belief as to the allegations set forth therein, and on that basis denies all
8 allegations in Paragraph 86.

9 87. In answering Paragraph 87, the Town re-alleges its responses to paragraphs 1
10 through 86 of the First Amended Petition.

11 88. In answering Paragraph 88, the Town admits the allegations set forth therein.

12 89. In answering Paragraph 89, the Town admits the allegations set forth therein.

13 90. In answering Paragraph 90, the Town denies each and every allegation set forth
14 therein.

15 91. In answering Paragraph 91, the allegation contained therein is a legal conclusion to
16 which no response is required.

17 92. In answering Paragraph 92, the Town does not have sufficient knowledge or
18 information to form a belief as to the allegations set forth therein, and on that basis, denies all
19 allegations in Paragraph 92.

20 93. In answering Paragraph 93, the Town denies each and every allegation set forth
21 therein.

22 94. In answering Paragraph 94, the Town does not have sufficient knowledge or
23 information to form a belief as to the allegations set forth therein, and on that basis, denies all
24 allegations in Paragraph 94.

25 95. In answering Paragraph 95, the Town re-alleges its responses to paragraphs 1
26 through 94 of the First Amended Petition.

27 96. In answering Paragraph 96, the Town admits all allegations contained therein.

28 97. In answering Paragraph 97, the Town does not have sufficient knowledge or

1 information to form a belief as to the allegations set forth therein, and on that basis, denies all
2 allegations in Paragraph 97.

3 98. In answering Paragraph 98, the Town does not have sufficient knowledge or
4 information to form a belief as to the allegations set forth therein, and on that basis, denies all
5 allegations in Paragraph 98.

6 99. In answering Paragraph 99, the Town re-alleges its responses to paragraphs 1
7 through 98 of the First Amended Petition.

8 100. In answering Paragraph 100, the Town does not have sufficient knowledge or
9 information to form a belief as to the allegations set forth therein, and on that basis, denies all
10 allegations in Paragraph 100.

11 101. In answering Paragraph 101, the Town denies each and every allegation contained
12 therein.

13 102. In answering Paragraph 102, the Town does not have sufficient knowledge or
14 information to form a belief as to the allegations set forth therein, and on that basis, denies all
15 allegations in Paragraph 102.

16 103. In answering Paragraph 103, the Town does not have sufficient knowledge or
17 information to form a belief as to the allegations set forth therein, and on that basis, denies all
18 allegations in Paragraph 103.

19 104. In answering Paragraph 104, the Town re-alleges its responses to paragraphs 1
20 through 103.

21 105. In answering Paragraph 105, the Town admits Petitioner made a PRA request to
22 the Town as set forth in Exhibit A, previously identified, and that said document speaks for itself.
23 Except as expressly admitted herein, the Town denies all other allegations in Paragraph 105.

24 106. In answering Paragraph 106, the Town admits it responded to Petitioner's PRA
25 request on May 11, 2015 as set forth in Exhibit C and that said document speaks for itself.

26 107. In answering Paragraph 107, the Town admits the allegations contained therein.

27 108. In answering Paragraph 108, the Town does not have sufficient knowledge or
28 information to form a belief as to the allegations set forth therein, and on that basis, denies all

1 allegations in Paragraph 108.

2 109. In answering Paragraph 109, the Town re-alleges its responses to paragraphs 1
3 through 108 of the First Amended Petition.

4 110. In answering Paragraph 110, the Town admits Petitioner made a PRA request to
5 the Town as set forth in Exhibit A, previously identified, and that said document speaks for itself.
6 Except as expressly admitted herein, the Town denies all other allegations in Paragraph 110.

7 111. In answering Paragraph 111, the Town admits it responded to Petitioner's PRA
8 request on May 11, 2015 as set forth in Exhibit C and that said document speaks for itself.

9 112. In answering Paragraph 112, the Town denies the allegation that it possesses a
10 separate contract for the 2014 phone survey.

11 113. In answering Paragraph 113, the Town admits the allegations set forth therein.

12 114. In answering Paragraph 114, the Town denies each and every allegation contained
13 therein.

14 115. In answering Paragraph 115, the Town does not have sufficient knowledge or
15 information to form a belief as to the allegations set forth therein, and on that basis, denies all
16 allegations in Paragraph 115.

17 116. In answering Paragraph 116, the Town re-alleges its responses to paragraphs 1
18 through 115 of the First Amended Complaint.

19 117. In answering Paragraph 117, the Town admits that it disclaimed possession of
20 responsive hard copy records. Otherwise, the Town is without sufficient information to admit or
21 deny the remaining allegations of Paragraph 117 and on that basis denies them.

22 118. In answering Paragraph 118, the Town denies each and every allegation contained
23 therein.

24 119. In answering Paragraph 119, the Town denies each and every allegation contained
25 therein.

26 120. In answering Paragraph 120, the Town admits the allegations contained therein.

27 121. In answering Paragraph 121, the Town does not have sufficient knowledge or
28 information to form a belief as to the allegations set forth therein, and on that basis, denies all

allegations in Paragraph 121.

AFFIRMATIVE DEFENSES TO FIRST AMENDED PETITION FOR

WRIT OF MANDATE

FIRST AFFIRMATIVE DEFENSE

(Failure to State a Claim)

1. The Town alleges the FAP fails to state facts sufficient to constitute a claim upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE

(Unclean Hands)

2. The Town alleges the FAP is barred by the doctrine of unclean hands.

THIRD AFFIRMATIVE DEFENSE

(Estoppel)

3. The Town alleges that the FAP is barred by the doctrine of estoppel.

FOURTH AFFIRMATIVE DEFENSE

(Waiver)

4. The Town alleges that the FAP is barred by the doctrine of waiver.

FIFTH AFFIRMATIVE DEFENSE

(No Beneficial Interest)

5. The Town alleges that Petitioner has no personal interest in the outcome of the litigation over and above the interest held in common with the public at large. (*Carsten v. Psychology Examining Comm.* (1980) 27 C3d 793, 798.)

SIXTH AFFIRMATIVE DEFENSE

(Town's Actions Were Reasonable)

6. The Town alleges that the Petitioner is not entitled to relief against the Town as sought by the FAP on the ground that any conduct by or on behalf of the Town was reasonable.

SEVENTH AFFIRMATIVE DEFENSE

(No Abuse of Discretion)

7. The Town alleges the FAP fails because the Town did not abuse its discretion.

EIGHTH AFFIRMATIVE DEFENSE

(Attorney-Client Privilege and/or Work Product)

8. The Town alleges that the FAP is barred because Petitioner's request seeks disclosure of documents subject to the attorney-client and/or work product privileges and such records are exempt from disclosure under the Public Records Act.

NINTH AFFIRMATIVE DEFENSE

(No Duty to Create Records)

9. The Town alleges that the FAP is barred because the Town is under no duty to create a record that does not exist at the time of the request.

TENTH AFFIRMATIVE DEFENSE

(Failure to Reasonably Describe Records)

10. The Town alleges that the FAI is barred because Petitioner's request under the PRA failed to reasonably describe an identifiable record or records, as required under Government Code section 6253(b).

ELEVENTH AFFIRMATIVE DEFENSE

(Reservation of Rights)

11. The Town alleges that the FAP is barred on the basis of other facts and allegations which either not yet known or whose materiality or relevance are not yet fully appreciated, and therefore, the Town reserves the right to amend this answer to assert additional defenses.

PRAYER

WHEREFORE, Respondent TOWN OF APPLE VALLEY prays as follows:

1. That Petitioner take nothing by her First Amended Petition for Writ of Mandate;
2. That the First Amended Petition be dismissed with prejudice;
3. That Respondent be awarded its costs and attorneys' fees if and as allowed by law; and

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4. Such other relief as the Court deems just and proper.

Dated: August 31, 2015

BEST BEST & KRIEGER LLP

By: 
RICHARD T. EGGER
LAUREN M. STRICKROTH
JESSICA K. LOMAKIN
Attorneys for Defendant and Respondent
TOWN OF APPLE VALLEY

PROOF OF SERVICE BY MAIL

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. I am readily familiar with this firm's practice for collection and processing of correspondence for mailing with the United States Postal Service. On August 31, 2015, I placed with this firm at the above address for deposit with the United States Postal Service a true and correct copy of the within document(s):

**TOWN OF APPLE VALLEY'S ANSWER TO FIRST
AMENDED PETITION FOR WRIT OF MANDATE**

in a sealed envelope, postage fully paid, addressed as follows:

Chad D. Morgan, Esq.
1101 California Avenue
Suite 100
Corona, CA 92881

Counsel for Plaintiff

Leanne Lee

Following ordinary business practices, the envelope was sealed and placed for collection and mailing on this date, and would, in the ordinary course of business, be deposited with the United States Postal Service on this date.

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

Executed on August 31, 2015, at Ontario, California.


Linda Tapia