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**FILED**  
ALAMEDA COUNTY

JUL 30 2009

CLERK OF THE SUPERIOR COURT

By Vicki Daybell JP

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
IN AND FOR THE COUNTY OF ALAMEDA

Rental Housing Owners Association of  
Southern Alameda County, Inc.,

Petitioner,

Vs.

City of Hayward,

Respondent.

No. HG09-433908

**JUDGMENT GRANTING WRIT OF  
MANDATE**

This cause came on regularly for hearing on June 3, 2009 in Department 31, for hearing on the verified Petition of Rental Housing Owners Association of Southern Alameda County, Inc. for Writ of Mandate, Judge Frank Roesch, presiding, James P. McBride and Verne A. Perry appeared as attorneys for petitioner. Jeffrey A. Cambra and Michael S. Lawson appeared as attorneys for respondent. The cause was heard on the papers filed and argument of counsel.

The cause having been submitted for decision, and a Statement of Decision promulgated by the court determining that Sections 9-5.306 and 9-5.401 of the Hayward Municipal Code contravene the 4<sup>th</sup> Amendment to the United States

Constitution and California Civil Code §1954 insofar as they require landlords to provide or otherwise facilitate entry by city inspectors into occupied dwelling units without the consent of a person who is in actual possession of the dwelling unit, and that said sections, for those reasons are facially invalid; whereupon a peremptory writ of mandate shall issue as follows;

**IT IS ORDERED, ADJUDGED, AND DECREED**

1. Respondent city is enjoined from enforcing Sections 9-5.306 and 9-5.401 of the Hayward Municipal Code, which provide as follows:

SEC. 9-5.306 ENTRY. Upon presentation of proper credentials the Enforcement Official, after having obtained the consent of the Owner or occupant, may enter any rental housing unit or motel or hotel at reasonable times during the daylight hours to perform any inspection required by this code.

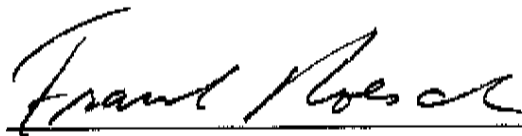
Except in emergency situations the Enforcement Official shall not enter any rental housing unit or motel or hotel without the consent of the Owner or occupant therefor unless an inspection warrant therefore has been obtained and issued in the manner provided by the Code of Civil Procedure of the State of California

SEC. 9-5.401 FEES / PENALTY CHARGES. The annual fee and fees or penalty charges for any inspection or re-inspection performed pursuant to the provisions of this code shall be established from time to time by resolution of the City Council. Payment of such fees shall be made by Owner of the rental housing unit or hotel or motel upon demand by the City.

2. The court reserves jurisdiction to supervise compliance with this peremptory writ of mandate.

**LET ISSUE A PEREMPTORY WRIT OF MANDATE** commanding Respondent to repeal or cure the Constitutional and statutory defects in the said Hayward Municipal Code Ordinances.

7/30/09  
Date

  
Frank Roesch  
Judge of the Superior Court