

For Immediate Release:

San Clemente, CA

From 2016 to 2017, the TCA and Caltrans secretly negotiated and executed agreements that created a several square mile “no go” zone for the construction of the SR 241, effectively guaranteeing that the TCA would seek to construct the toll road directly through the established community of San Clemente, with devastating environmental, socioeconomic, and human impacts. These agreements unilaterally rescinded over 30 years of planning and public process in favor of a “back room” deal which was both outside the scope of the TCA’s and Caltrans’ authority and in blatant violation of California’s open-meeting laws. The Reserve Maintenance Corporation, through their counsel Daniel P. Bane and Ashton M. Bracken of Sheppard, Mullin, Richter & Hampton LLP, have filed a lawsuit to have these agreements declared invalid.

In 1988, the California legislature defined State Route 241 as “Route 241 near the Cities of Tustin and Irvine to **Route 5 south of San Clemente.**” Since then, the SR 241 has always been depicted in various government planning documents as a major thoroughfare which went *around* the Cities of San Clemente and San Juan Capistrano and connected to Interstate Route 5 south of San Clemente. Indeed, the Reserve was planned and built in reliance on the promise, and with the expectation, that any proposed toll road alignment would bypass it and connect to Route 5 in San Diego County as the California Legislature clearly intended. In 2006, the TCA originally approved the so-called “Green Alignment” for SR 241, which connected to Route 5 south of San Clemente near Basilone Road in San Diego County. This decision was challenged under CEQA by various environmental groups in 2006 and 2013.

In November 2016, the TCA entered into a settlement agreement to resolve these suits without *any* notice or opportunity for public comment and deliberation. The settlement agreement declared a several square-mile area, called the “avoidance area,” forever off-limits to the TCA for the construction of the SR 241 toll road and effectively foreclosed, in perpetuity, *any* potential SR 241 alignment to the east of San Clemente and/or connecting to Route 5 south of San Clemente. As mandated by the settlement agreement, the TCA and Caltrans later entered into a protective agreement, again without the required noticed public hearings, wherein TCA again promised not to fund or construct a road in the avoidance area and Caltrans promised not to “approve, permit, take possession of or otherwise authorize the construction of a major thoroughfare in the avoidance area.”

The Reserve Maintenance Corporation has brought suit on the grounds that neither TCA nor CalTrans had the legal authority to enter into these agreements and that these agreements improperly permanently restrict their governmental authority regarding the funding or construction of any roadway in the avoidance area. Further, the agreements were considered and adopted during a closed session and without any noticed public hearing in violation of the Brown Act.

For further question, please direct concerns to Daniel Bane of Sheppard, Mullin, Richter & Hampton LLP.