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ORIGINAL FILED  
SUPERIOR COURT OF CALIFORNIA  
COUNTY OF LOS ANGELES

OCT 28 2013

John A. Clarke, Executive Officer/Clerk  
By Amber Hayes, Deputy

5 Attorneys for Plaintiff  
6 People ex rel. City of Irwindale, a municipal corporation,  
and Fred Galante, as City Attorney for the City of Irwindale

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
9 COUNTY OF LOS ANGELES - CENTRAL DISTRICT

11 PEOPLE ex rel. CITY OF IRWINDALE, a )  
municipal corporation, and FRED GALANTE, )  
12 City Attorney for the City of Irwindale, )

13 Plaintiffs, )

14 v. )

15 HUY FONG FOODS, INC., a California )  
corporation, and DOES 1 through 20, inclusive, )

16 Defendant. )

) Case No.

BC525856

) Filing Fees Exempt, Per Gov't Code § 6103

) **COMPLAINT FOR PUBLIC NUISANCE**  
) **AND INJUNCTIVE RELIEF**

17  
18 Plaintiff PEOPLE ex rel. CITY OF IRWINDALE, a municipal corporation ("City"), and  
19 FRED GALANTE, as City Attorney for the City of Irwindale, allege as follows:

20 1. This action is brought and prosecuted in the name of the People through their  
21 relators, the City and Fred Galante as City Attorney for the City of Irwindale, pursuant to Code of  
22 Civil Procedure Section 731 and Irwindale Municipal Code Section 8.08.120, to enjoin the  
23 continued maintenance of certain conditions caused by the operation of the chili sauce processing  
24 facility owned and operated by Defendant Huy Fong Foods, Inc. ("Defendant") at 4800 Azusa  
25 Canyon Road, in the City of Irwindale, in the County of Los Angeles, California ("Subject  
26 Property"), which constitutes a public nuisance due to the emanation of odors and irritants from the  
27 Subject Property which are causing physical harm and discomfort to the people of the City of  
28 Irwindale.

COMPLAINT FOR PUBLIC NUISANCE AND INJUNCTIVE RELIEF

1 **PARTIES**

2 2. The City is, and at all relevant times hereto has been, a municipal corporation and a  
3 chartered city organized and existing under the laws of the State of California, and located entirely  
4 within the County of Los Angeles, California.

5 3. Fred Galante is the duly appointed City Attorney of the City.

6 4. The Council of the City has duly authorized the filing of this action and has directed  
7 the City Attorney to file it.

8 5. Plaintiffs are informed and believe and based thereon allege that Defendant is, and  
9 at all relevant times hereto has been, a California corporation authorized to conduct business in  
10 State of California, with its principal place of business in the County of Los Angeles, State of  
11 California.

12 6. Plaintiffs are ignorant of the true names and capacities of the defendants sued as  
13 Does 1 through 20, inclusive. Therefore, Plaintiffs sue these defendants by such fictitious names.  
14 Plaintiffs will amend this Complaint to allege their true names and capacities when ascertained.

15 7. Plaintiffs are informed and believe and based thereon allege that each of the  
16 fictitiously-named defendants have some interest in the Subject Property, and are responsible in  
17 some manner for the conditions complained of and continuing maintenance of those conditions, the  
18 facts of which are described below.

19 **GENERAL ALLEGATIONS**

20 8. Plaintiffs are informed and believe and based thereon allege that at all relevant times  
21 herein Defendant was and is the owner of record and/or in control of the Subject Property wherein  
22 Defendant crushes and processes chilies to manufacture its various chili sauces and related  
23 products which are sold by Defendant to the public.

24 9. The Subject Property, a manufacturing facility in excess of 600,000 square feet, is  
25 located at the intersection of Azusa Canyon Road and Olive Street, which is a major intersection in  
26 the City of Irwindale.

27 10. From mid-September 2013 to the present, the City has received numerous  
28 complaints from residents complaining of the strong, offensive chili odors emanating from the

1 Subject Property causing irritation to residents' eyes and throats and causing residents to  
2 experience headaches. The odors are so strong and offensive as to have caused residents to move  
3 outdoor activities indoors and even to vacate their residences temporarily to seek relief from the  
4 odors.

5 11. On October 1, 2013, City staff met with Defendant's representatives to discuss the  
6 odor issue and options to abate the odors. At that time, Defendant's representatives responded  
7 positively, stating they would do everything possible to abate the odors.

8 12. However, on October 3, 2013, Defendant changed its position and informed the City  
9 that it had decided to hold off on taking any immediate action.

10 13. Consequently, on October 3, 2013, the City sent a courtesy Notice of Violation to  
11 Defendant informing Defendant of the need for an immediate action plan identifying short-term  
12 and long-term solutions to prevent odors emanating from the Subject Property. A true and correct  
13 copy of the courtesy Notice of Violation is attached hereto as Exhibit "A".

14 14. On October 16, 2013, City staff again met with Defendant's representative to  
15 discuss the continuing odor issue and emphasized the need for an action plan from Defendant  
16 illustrating the steps to be taken to abate the odors. At this meeting, Defendant's representative  
17 asserted that no odor problem existed.

18 15. On October 17, 2013, the City sent a Notice of Violation to Defendant notifying  
19 Defendant the strong and annoying odors emanating from the Subject Property constituted a public  
20 nuisance and therefore, Defendant was in violation of Section 8.08.010 of the IMC. The Notice of  
21 Violation demanded Defendant to address the nuisance and provide a detailed plan of action  
22 showing a timeframe correcting the violation. The detailed plan of action was required to be  
23 submitted by October 21, 2013. A true and correct copy of the Notice of Violation is attached  
24 hereto as Exhibit "B".

25 16. To date, the City has received no action plan from Defendant illustrating the steps it  
26 will take to address the odor problem.

27 17. The offensive and annoying odors continue to emanate from the Subject Property,  
28 the condition is becoming worse, the residents continue to be affected by it and the City continues

1 to receive complaints.

2 **FIRST CAUSE OF ACTION**

3 **Public Nuisance - Injunctive Relief - Against Defendant**

4 **(IMC § 8.08.010, Code of Civil Procedure §§ 526, 731 and Civil Code §§ 3479, 3480)**

5 18. Plaintiffs incorporate by reference Paragraphs 1 through 17 above as though fully  
6 set forth herein.

7 19. Irwindale Municipal Code (“IMC”) Section 8.08.010 and Civil Code Sections 3479  
8 and 3480 define what constitutes a public nuisance.

9 20. IMC Section 8.08.010 declares it is a public nuisance when any person owning,  
10 leasing, occupying or having charge of any premises in the City of Irwindale maintains such  
11 premises in a condition which is adverse or detrimental to the public peace, health, safety or  
12 general welfare. True and correct copies of Sections 8.08.010 and 8.08.120 of the IMC defining  
13 “public nuisance” and authorizing legal action are attached hereto as Exhibit “C”.

14 21. Civil Code Section 3479 provides in relevant part: “Anything which is injurious to  
15 health, . . . or is indecent or offensive to the senses, . . . so as to interfere with the comfortable  
16 enjoyment of life or property, . . . is a nuisance.”

17 22. Civil Code Section 3480 provides: “A public nuisance is one which affects at the  
18 same time an entire community or neighborhood, or any considerable number of persons, although  
19 the extent of the annoyance or damage inflicted upon individuals may be unequal.”

20 23. Defendant has occupied, used and maintained the Subject Property in a manner that  
21 permits strong, offensive chili odor to emanate from the Subject Property. The odor is causing  
22 physical harm and discomfort to citizens of the City of Irwindale and interfering with their  
23 enjoyment of life or property.

24 24. The aforementioned occupation, use and maintenance of the Subject Property of  
25 Defendant constitutes an ongoing nuisance within the meaning of IMC Section 8.08.010 and Civil  
26 Code Sections 3479 and 3480 in that it is injurious to the health of the residents and the  
27 community, is offensive to the senses, and interferes with the comfortable enjoyment of life and  
28 property.




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Dated: October 25, 2013

Respectfully submitted,

ALESHIRE & WYNDER, LLP  
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By:   
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