

S289952

**IN THE SUPREME COURT
OF THE STATE OF CALIFORNIA**

**TESORO REFINING &
MARKETING COMPANY LLC, et al.,**

Plaintiffs and Appellants,

v.

CITY OF CARSON,

Defendant and Respondent.

Review of an Unpublished Decision of the Second
Appellate District, Division 4, No. B335686

On Appeal from the Los Angeles County Superior Court,
The Honorable Holly J. Fujie, No. 23STCV14351

**HOWARD JARVIS TAXPAYERS ASSOCIATION'S
APPLICATION FOR LEAVE TO FILE BRIEF OF AMICUS
CURIAE AND BRIEF OF AMICUS CURIAE
IN SUPPORT OF APPELLANTS**

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APPLICATION FOR LEAVE TO FILE

Pursuant to Rule 8.520(f) of the California Rules of Court, leave is hereby requested to file the attached Brief of Amicus Howard Jarvis Taxpayers Association supporting Plaintiffs and Appellants Tesoro, et al., in this case.

INTEREST OF AMICUS

Howard Jarvis Taxpayers Association (“HJTA”) is a California non-profit public benefit corporation with hundreds of thousands of dues-paying members. The late Howard Jarvis, one of the proponents of Proposition 13 in 1978, founded HJTA to defend and enforce Proposition 13 and the other taxpayer initiatives subsequently enacted by voters.

Because HJTA is routinely in court fighting for governmental compliance with Propositions 13, 218, and 26, HJTA is impacted by procedural hurdles and traps designed to deny taxpayers their day in court. HJTA therefore has an interest in this case because the Court will decide whether a city may heap additional “administrative remedies” on taxpayers which merely duplicate the claim procedure already required by the Government Claims Act.

HJTA supports Plaintiffs/Appellants Tesoro, et al., and urges this Court to reverse the decision of the Second District, Division Four, Court of

Appeal. Believing that this Court will benefit from additional argument, HJTA requests leave to file the accompanying Brief of Amicus Curiae in order to lend its perspective as taxpayer advocates.

AUTHORSHIP AND FUNDING

No party or attorney to this litigation authored the proposed amicus brief or any part thereof. No one other than HJTA made a monetary contribution toward the preparation and submission of the brief.

For the foregoing reasons, HJTA respectfully requests this Court's permission to file the attached Brief of Amicus Curiae.

DATED: Oct. 1, 2025

Respectfully submitted,

JONATHAN M. COUPAL
TIMOTHY A. BITTLE
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BRIEF OF AMICUS CURIAE

CARSON MUNICIPAL CODE SECTIONS 63515 AND 63523 NEED NOT BE EXHAUSTED BECAUSE CITY OFFICIALS HAVE NO SPECIAL EXPERTISE TO OFFER; RATHER, THE CITY’S LEGITIMATE INTERESTS ARE FULLY SERVED BY THE STATE GOVERNMENT CLAIMS ACT

Carson Municipal Code section 63515 requires a refund applicant to submit a written claim to the City’s Finance Director within one year of the payment to be refunded. It provides, “No [amount] shall be refunded unless it is determined by the Director that it has been paid in error, computed incorrectly, overpaid, *or collected illegally.*”

If the taxpayer is dissatisfied with the Finance Director’s decision, Municipal Code section 63523 then requires a written appeal to the City Manager stating “the grounds of appeal.” Within 60 days, the City Manager will schedule a hearing and “allow an opportunity for submission of argument and evidence.” After the hearing, the City Manager will “determine whether and to what extent to grant or deny the appeal.”

Procedurally, these two ordinances provide the City nothing more than the California Government Claims Act already requires. The GCA requires: (1) a written claim, (2) the name and contact information of the claimant, (3) the date, place and other circumstances which gave rise to the claim, (4) a description of the indebtedness, obligation, or other theory of liability, (5) the

name(s) of any public employee(s) who caused the liability, and (6) the amount claimed. (Gov. Code § 910.) Tort claims must be submitted within six months, and other claims within one year of “accrual of the cause of action.” (Gov. Code § 911.2.) “A claim ... shall be presented to a local public entity by ... (1) Delivering it [or] (2) Mailing it to the clerk, secretary, auditor, or to the governing body at its principal office.” (Gov. Code § 915.)

These requirements of the GCA are equal to or greater than the requirements of the Carson Municipal Code. While the GCA permits service upon the City Clerk, the offices of the Finance Director, the City Manager, and the City Clerk are all in the same building at 701 E. Carson Street (<https://carsonca.gov/government/>) and according to Municipal Code section 2201, any application required to be filed with the City may be filed with the City Clerk.

The *only* difference between the GCA and Carson’s Municipal Code is that the latter purports to authorize the City’s Finance Director and City Manager to hear argument and weigh evidence to “determine” whether a tax was “collected illegally.” (Muni Code §§ 63515, 63523.)

Hearing argument, weighing evidence, and determining whether a tax was collected illegally are not duties or responsibilities entrusted by the law to executive branch employees who are not even required to have a law degree

to hold office. “Our Constitution assigns the resolution of such specific controversies to the judicial branch of government.” (*Mandel v. Myers* (1981) 29 Cal.3d 531, 547; see also *Marbury v. Madison* (1803) 5 U.S. (1 Cranch) 137, 177 [“It is emphatically the province and duty of the judicial department to say what the law is.”]) The separation of powers doctrine prohibits the legislature or executive branch “from arrogating to itself core functions of the [judicial] branch.” (*People v. Bunn* (2002) 27 Cal.4th 1, 16.)

Since the *only* thing distinguishing Carson’s Municipal Code from the GCA is an *illegitimate* thing, the Municipal Code merely duplicates the GCA and the justification for requiring the exhaustion of additional administrative remedies evaporates.

The primary purpose of the exhaustion doctrine “is to afford administrative tribunals the opportunity to decide in a final way *matters within their area of expertise* prior to judicial review.” (*Citizens for Open Gov’t v. City of Lodi* (2006) 144 Cal.App.4th 865, 874 [quoting *San Bernardino Valley Audubon Society, Inc. v. County of San Bernardino* (1984) 155 Cal.App.3d 738, 748].) Since the issue of whether a tax was collected illegally “is solely one of law that the court determines independently, [the] issue is not one that would benefit from application of administrative expertise.” (*California-Nevada Ann. Conf. etc. v. City & County of San Francisco* (2009)

173 Cal.App.4th 1559, 1569 [citations omitted].) “Courts have required exhaustion when they ‘have expressly or implicitly determined that the administrative agency possesses a specialized and specific body of expertise in a field that particularly equips it to handle the subject matter of the dispute.’” (*City of Industry v. City of Fillmore* (2011) 198 Cal.App.4th 191, 210.) But “where ... the agency possesses no greater expertise to consider the controversy than a judicial forum, exhaustion of the administrative remedy is not required.” (*Mathew Zaheri Corp. v. Mitsubishi Motor Sales* (1993) 17 Cal.App.4th 288, 293 [citations omitted].)

Once this Court disregards the illegitimate purpose of arrogating to executive branch employees the judiciary’s exclusive province of determining whether a tax was collected illegally, the other purposes served by Carson’s ordinances, and by the exhaustion doctrine in general, are all fully served by the GCA. “The purpose of this claim-filing statute is to give the public entity the opportunity to investigate and negotiate settlement of claims.” (*Eaton v. Ventura Port Dist.* (1975) 45 Cal.App.3d 862, 867.) “The purpose of the requirement ... is to provide the public entity with full information concerning rights asserted against it, so that it may settle those of merit without litigation.” (*Ard v. County of Contra Costa* (2001) 93 Cal.App.4th 339, 347.)

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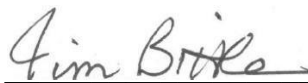
The GCA serves all of the legitimate purposes of the municipal ordinances. The City receives notice of the claim and details of the claim. It is given time to investigate the claim. It can seek the advice of counsel. And it can negotiate meritorious claims to avoid litigation. Where the purposes of the municipal ordinances are served by the GCA, the exhaustion doctrine does not require litigants to jump through duplicative municipal hoops. “Exhaustion of administrative remedies usually contemplates termination of all available, *nonduplicative* administrative review procedures.” (*California Corr. Peace Officers Assn. v. State Personnel Bd.* (1995) 10 Cal.4th 1133, 1151; *Plantier v. Ramona Mun. Water Dist.* (2019) 7 Cal.5th 372, 389; *Hill RHF Housing Partners, L.P. v. City of Los Angeles* (2021) 12 Cal.5th 458, 477.)

Since Carson’s ordinances are duplicative, nothing is served by complying with both them and the GCA; therefore compliance is not required.

DATED: Oct. 1, 2025

Respectfully submitted,

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WORD COUNT CERTIFICATION

I certify, pursuant to Rule 8.520 of the California Rules of Court, that the attached brief, including footnotes but excluding the caption page, tables, application, and this certification, as measured by the word count of the computer program used to prepare this pleading, contains 1,039 words.

Dated: Oct. 1, 2025



Timothy A. Bittle
Counsel for Amicus Curiae
HOWARD JARVIS TAXPAYERS
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PROOF OF SERVICE

I, Kiaya Algea, declare:

I am employed in the County of Sacramento, California. I am over the age of 18 years, and not a party to the within action. My business address is: 1201 K Street, Suite 1030, Sacramento, California 95814. My electronic service address is: kiaya@hjta.org. On October 1, 2025, I served:

- **HOWARD JARVIS TAXPAYERS ASSOCIATION'S APPLICATION FOR LEAVE TO FILE BRIEF OF AMICUS CURIAE AND BRIEF OF AMICUS CURIAE IN SUPPORT OF APPELLANTS**

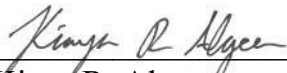
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I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on October 1, 2025, at Sacramento, California.



Kiaya R. Algea

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STATE OF CALIFORNIA
Supreme Court of California

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STATE OF CALIFORNIA
Supreme Court of California

Case Name: **TESORO REFINING & MARKETING COMPANY v. CITY OF CARSON**

Case Number: **S289952**

Lower Court Case Number: **B335686**

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

10/1/2025

Date

/s/Kiaya Algea

Signature

Bittle, Timothy (112300)

Last Name, First Name (PNum)

Howard Jarvis Taxpayers Foundation

Law Firm