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**BEFORE THE HEARING BOARD OF THE
SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT**

In the Matter Of

Case No. 6177-4

SOUTH COAST AIR QUALITY
MANAGEMENT DISTRICT,

**MOTION TO QUASH SUBPOENA
DUCES TECUM**

Petitioner,

vs.

Health and Safety Code § 41700, and District
Rules 402, 431.1, 3002, 203, 1150

CHIQUITA CANYON, LLC, a Delaware
Corporation,
[Facility ID No. 119219]

Hearing Date: January 29, 2026

Time: 9:30 AM

Place: Hearing Board
South Coast Air Quality
Management District
21865 Copley Drive
Diamond Bar, CA 91765

Respondent

South Coast Air Quality Management District ("District"), requests that the South Coast Air Quality Management District Hearing Board quash the subpoena duces tecum ("Subpoena") served by Chiquita Canyon, LLC, a Delaware Corporation ("Chiquita") upon the District on December 2, 2025.

Chiquita requests the disclosure of identifying information for any complainants who

1 alleged Chiquita Canyon Landfill as the source of nuisance-level odors. Specifically, Chiquita
2 requests the complainants' private house numbers and Global Information Systems ("GIS") data¹
3 from September 5, 2025, through the present, and requests continued disclosure of that information
4 on a quarterly basis. Ordering the disclosure of complainants' private identifying information will
5 chill public participation in the District's investigative process and will impede the District's
6 ability to perform its legislatively-mandated duty to investigate and enforce violations of air
7 quality laws. The District objects to the disclosure of the house numbers, as it is confidential and
8 privileged official information, thereby necessitating the filing of this Motion.

9 This Motion is based on the files and records in this action, the concurrently filed
10 Declaration of Kathryn Roberts, and any further evidence and argument that the Hearing Board
11 may receive at or before the hearing.

12 **STATEMENT OF FACTS**

13 Multiple agencies with investigatory authority over Chiquita Canyon Landfill entered into a
14 Common Interest Agreement for purposes of "enab[ling] the Parties to share confidential and
15 privileged information, or information that is otherwise exempt from public disclosure...without
16 waiving the confidential, privileged, or exempt status." (Declaration of Kathryn Roberts ["Roberts
17 Decl."], Exhibit 1: Common Interest Confidentiality Agreement [the "CICA"], pg. 2.) The CICA's
18 protections ensure that signatory agencies can "serve the public interest" and "effectively confer and
19 consult on a matter of joint concern for the purpose of and in furtherance of their shared policy goals
20 and statutory directives related to the Landfill." (Roberts Decl., Exhibit 1, pg. 2.) The District and
21 the County of Los Angeles (the "County") are signatories to the CICA and are authorized to receive
22 and exchange confidential information without waiving any applicable privileges.

23 In pursuit of the public interest, on December 16, 2024, the County filed a complaint in the
24 United States District Court for the Central District of California (Case No. 2:24-cv-10819-MEMF-
25 MAR) alleging several causes of action against Chiquita, including public nuisance. (Roberts Decl.,
26

27 ¹ The District does not collect, much less maintain, any GIS data about complainants. Absent some
28 proffer by Chiquita that any such data exists, this Board should decline to entertain this request.

1 Exhibit 2: Federal Docket, ECF No. 1.) Shortly thereafter, on May 29, 2025, the County moved for
2 a preliminary injunction against Chiquita. (Roberts Decl., Exhibit 2, ECF No. 58.)² The County
3 sought directed relief for those affected by the odor nuisance emanating from Chiquita's facility;
4 specifically, that Chiquita be ordered to pay for "the temporary relocation of residents living in the
5 hots spots" near the landfill and for "the remedial measures people living, working, or studying in
6 proximity to the Landfill undertake to mitigate the effects they are suffering from the Landfills
7 odors." (Roberts Decl., Exhibit 3: County's Preliminary Injunction Motion ["PI Motion"], pg. 2.)

8 In support of the County's efforts to obtain directed relief for affected community members,
9 the District, on March 18, 2025, provided the County with complaint data (including private house
10 numbers) for the period of January 1, 2023, through February 18, 2025 (the "First Confidential Data
11 Set"). On March 21, 2025, the District provided additional complaint data to the County for the
12 period of February 19, 2025, through March 18, 2025 (the "Second Confidential Data Set"), and
13 again on September 10, 2025, for the period of March 19, 2025, through September 4, 2025 (the
14 "Third Confidential Data Set"). The First, Second, and Third Confidential Data Sets are collectively
15 referred to as the "Confidential Data." The District provided the Confidential Data to the County so
16 that it could effectively obtain, through its PI Motion, relocation or home-hardening costs for the
17 community members affected by Chiquita's odor nuisance. (Roberts Decl. ¶ 6.) On each occasion
18 that the District disclosed a set of Confidential Data, the District provided the information to persons
19 authorized to receive such information, explicitly indicated that the disclosure was made under the
20 CICA, and asserted that the data was confidential. (Roberts Decl., Exhibit 4: Disclosure Emails.)

21 Moreover, as part of agreeing to provide the Confidential Data, the District requested that
22 the County separately pursue a stipulated protective order with Chiquita for purposes of protecting
23 the Confidential Data when litigating the preliminary injunction motion in the Federal proceedings.
24 (Roberts Decl., ¶ 7 and Exhibit 5: Stipulated Protective Order Relating to Preliminary Injunction
25 Motion [the "Protective Order"].) The County and Chiquita agreed to the terms of a stipulated
26 protective order, and it was ordered by the Court for good cause shown on June 30, 2025. (Roberts

27
28 ² The District is not a party to the federal litigation, including the preliminary injunction proceedings.

1 Decl., Exhibit 2, ECF Nos. 86 and 97.) The Protective Order’s purpose was to “facilitate the
2 exchange of information and documents...including data and information from *non-parties*...that
3 may be subject to confidentiality limitations.” (Roberts Decl., Exhibit 5 § 1.1 (emphasis added).)
4 Confidential information was expressly defined in the Protective Order as including “home
5 addresses, home phone numbers, [and] names of complaining person to various regulatory
6 agencies.” (Roberts Decl., Exhibit 5 § 2.3.) As a party to the Protective Order, Chiquita agreed that
7 this was information “for which special protection from public disclosure and from *use for any*
8 *purpose* other than litigating the PI motion is warranted.” (Roberts Decl., Exhibit 5 § 1.2 (emphasis
9 added).) It was the District’s understanding it was a non-party within the meaning of the Protective
10 Order, and that the Confidential Data was within the Protective Order’s definition of confidential
11 information, insulated by the Order from public disclosure, and prohibited for use by Chiquita in any
12 other proceeding—including those before this Hearing Board. (Roberts Decl. ¶¶ 7 and 8.)

13 On August 29, 2025, the District Court granted the County’s PI Motion, finding “no defect”
14 in the “process through which AQMD inspectors verify complaints” and holding that residents who
15 experience the offensive odors are likely to suffer irreparable harm. (Roberts Decl., Exhibit 6: Order
16 Granting County’s Motion for Preliminary Injunction [“PI Order”], pg. 15.) However, the Court
17 reserved on granting specific relief until the County could show “how it will administer the allocation
18 of the [relief] fund” or that it had identified the “correct households” to receive the relief. (Roberts
19 Decl., Exhibit 6, pg. 18.) Accordingly, the Court requested that the parties (Chiquita and the County)
20 file a joint statement “proposing a manner of more narrowly tailoring the injunction with respect to
21 (1) the households to be included.” (Roberts Decl., Exhibit 6, pg. 19.) On September 29, 2025, the
22 County filed the Court-requested statement. (Roberts Decl., Exhibit 7: Joint Statement Regarding
23 Scope of Preliminary Injunction [the “Statement”].) In its filing of the Statement, the County
24 included the Confidential Data for the purposes of enabling the Court to narrowly tailor the requested
25 relief for the affected community members. (Roberts Decl., Exhibit 2, ECF No. 159, Fed. Ex. 6.)
26 Specifically, it was used to identify “Eligible Households” from within the Confidential Data for
27 receipt of relocation or home hardening costs. (Roberts Decl., Exhibit 7, pgs. 5 and 8.)

28 On October 18, 2025, Chiquita notified the District that it had obtained the Confidential Data

1 from the Statement in the federal proceedings. (Roberts Decl., Exhibit 8: Subpoena Emails.) Chiquita
2 stated its intent to withhold revealing the private house numbers, but indicated it would use the
3 address information for an unauthorized purpose beyond the scope of the PI Motion by presenting
4 analysis derived from the Confidential Data at the then-upcoming hearing before this Hearing Board.
5 Believing that the analysis would likely prove irrelevant or immaterial, the District indicated that it
6 would not object to the introduction of any such analysis so long as it did not reveal the house
7 numbers and the District was provided an opportunity to review the analysis prior to it being entered
8 into the public record at the Hearing. (Roberts Decl. ¶ 12.) Chiquita also requested that the District
9 voluntarily provide confidential address information moving forward on a quarterly basis. The
10 District declined. (Roberts Decl., Exhibit 8: Subpoena Emails.)

11 On, December 2, 2025, Chiquita filed its request for a subpoena ordering the production of
12 certain complaint information, including “the full address of the location of the complainant,
13 including building number, street name, city or neighborhood, and zip code” and “all raw and GIS-
14 based data underlying the complaints.” (Declaration of Jacob P. Duginski [“Duginski Decl.”],
15 Exhibit A.) The request also seeks “the complainant’s description of the odor.” Together, “the
16 Subpoena would direct the South Coast AQMD to include the full address of each complainant and
17 the complainant’s description of odors.” (Duginski Decl. ¶ 2.) Chiquita requests this information
18 from the end period of the Confidential Data (September 5, 2025) through the present, as well as
19 ongoing disclosures of such information on a quarterly basis. (*Id.*)

20 On December 9, 2025, Chiquita contravened the agreed-upon limitations of information
21 received pursuant to the Protective Order and presented its analysis of the Confidential Data to the
22 Hearing Board. Chiquita’s witness, and proponent of the analysis, Patrick Sullivan, agreed that he
23 had not used the data to contest the existence of a public odor nuisance, and that contesting an odor
24 nuisance would not be relevant to a proceeding for a stipulated order for abatement. (Sullivan
25 Testimony, pgs. 94-95, lines 17-25 and 1-11, respectively.) Under questioning by the Board, Mr.
26 Sullivan agreed, generally, that there was no need to know the exact home address in order to identify
27 odor hotspots. (Sullivan Testimony, pgs. 110, lines 15-17.)
28

1 **ARGUMENT**

2 This Board should grant the District's motion to quash, as Chiquita has failed to meet its
3 burden. To prevail in its request for a subpoena, Chiquita needed to establish: (1) the information
4 sought is relevant and material to the subject matter involved; (2) the information is not privileged;
5 and (3) considering all circumstances, including the return on the subpoena, complying with the
6 subpoena will not impose an undue burden. (*See* Hearing Board Rule 9(a)(4).) First, the full
7 address information of the complainants (e.g., their private home address numbers) is not material
8 to these stipulated proceedings for an abatement order. Second, the personal identifying
9 information of the complainants is privileged material pursuant to the Official Information
10 Privilege. (Evid. Code § 1040.) Finally, and specific to the request for complainant descriptions of
11 odors, the request is unduly burdensome to the District.

12 **I. Private Address Information is Not Material to These Proceedings.**

13 Chiquita fails to show that the information sought is material to these proceedings. To
14 prevail on its request, Chiquita must establish that the information sought is *both* "relevant *and*
15 material to the subject matter involved." (*See* Hearing Board Rule 9(a)(4)(A) (emphasis added).)
16 As distinct from one another, information is material where it is "of consequence to the merits of
17 the litigation, while relevancy is a function of whether the evidence tends to make the existence of
18 a material fact more or less probable." (29 Am. Jur. 2d Evidence § 291.) In other words,
19 information does not need to be meaningless to be immaterial, and merely being relevant does not
20 make the information material. While having confidential data may help to "fully understand" the
21 complaint data or "improve the accuracy of any analysis." (Duginski Decl. ¶ 4), such benefit is not
22 necessarily of consequence to the merits of these proceedings (i.e. is not material) because it does
23 not relate to any potential finding that the Board could make.

24 **A. Complainant House Numbers are Not Material to a Stipulated Abatement.**

25 The private house numbers of complainants are immaterial and of no consequence to the
26 determinations that this Board must make. In these abatement proceedings, this Board is
27 potentially tasked with making two determinations: (1) the Rule 806(a) findings, including whether
28 Chiquita is violating any statute or rule, and (2) what conditions may be appropriate to accomplish

1 the necessary abatement. (District Rule 806(a) and 805.) Where, as here, the Board is issuing an
2 order for abatement pursuant the parties' stipulation, it need not make the 806(a) findings. Instead,
3 the Board simply looks for good cause to adopt the stipulated order and conditions. The private
4 house numbers of odor complainants are not material to that limited analysis.

5 Principally, where the parties agree that there is good cause for issuance of an Order for
6 Abatement, there is necessarily no factual dispute *before the Hearing Board*. While the parties
7 may disagree as to the precise contours of the underlying facts, those disputes are not deliberated
8 on when the parties seek a *stipulated* order. For example, whether the parties agree that the
9 reaction area is expanding is immaterial because the outcome of that dispute does not change the
10 finding the Board is tasked to make. Whether the reaction is expanding or contracting, the Board
11 merely considers whether to adopt the Parties' stipulation and does not consider or make any
12 findings respecting that underlying dispute. Likewise, the private house numbers, and any analysis
13 of it, isn't material to these stipulated proceedings. Indeed, Chiquita presented its analysis based on
14 the private house numbers within the Confidential Data at the last hearing and, as with all past
15 proceedings in this matter, the usual result followed: the stipulated order and conditions were
16 adopted. Nothing in the analysis presented was involved in the Board's deliberation over adopting
17 the stipulated order and conditions. In effect, the analysis of private house numbers was of no
18 consequence, and there's no reasonable basis to believe that future stipulated proceedings would
19 be different. Accordingly, the stipulated nature of the hearing entirely precludes a finding that the
20 requested information is material.

21 **B. Even if Chiquita were to Contest these Abatement Proceedings, the Residential**
22 **Addresses of Complainants would still Not be Material.**

23 Contesting these proceedings would not render complainant house numbers material.
24 Chiquita has the Confidential Data in its possession for at least a couple months. Despite having
25 access to the data, including 3 years' worth of private house address numbers, Chiquita has failed
26 to present any material analysis. Indeed, Chiquita's presentation analyzing the private house
27 numbers did not challenge that there were enough households for finding a public nuisance, nor
28 did it justify a change in any existing or prospective condition. Moreover, any such challenge

1 could be made based on the complainant information that the District already provides, including
2 the street name, city, zip code, date, time, unique complaint number, and disposition of the
3 complaint. Accordingly, the addition of house numbers would provide no possible effect on
4 whether Chiquita “is in violation of Section 41700” or what conditions are necessary to
5 accomplish the abatement. (*See* Rule 806(a)(1).)

6 For example, Chiquita presented alleged findings showing that half of the total complaints
7 resulting in an NOV came from as many as 20 unique households.³ This alleged fact would be of
8 no consequence even at a contested hearing. Whether half the complaints originate from 13, 20,
9 50, or 100 unique households is not material, as the total daily number of unique complaints has
10 exceeded the odor nuisance threshold of 6 households (or 1 school). Given that the daily threshold
11 is met, the private house numbers associated with those complaints are not dispositive for any
12 finding of an odor public nuisance violation and thus are not material.

13 Chiquita’s witness and proponent of the analysis, Patrick Sullivan, admitted on cross-
14 examination that there was no evidence showing that any NOV was alleged with an insufficient
15 number of complaints. (Sullivan Testimony, pgs. 94-95, lines 17-21.) Further, it is utterly
16 unremarkable that certain homes are repeatedly impacted. Chiquita is a stationary source, and the
17 odor nuisance emanating from it is impacting nearby residential homes, which are also stationary.
18 It would be notable if nearby stationary locations *weren’t* repeatedly impacted. Moreover, the
19 redacted complaint information South Coast AQMD voluntarily provides Chiquita already
20 demonstrates this pattern of repeated impacts. As Mr. Sullivan testified, the neighborhoods with
21 the highest impacts are already known. (Sullivan Testimony, pgs. 90-91.) The presented analysis
22 had no actual bearing on any finding, did not illuminate anything material that was previously
23 unknown, and, by the end of cross examination, even Mr. Sullivan agreed that the analysis wasn’t
24 relevant to the finding of a public nuisance. (Sullivan Testimony, pg. 95, lines 6-11.)

25 The use of private house numbers in litigating the PI Motion does not command a different

26
27 ³ Mr. Sullivan’s representation, at the hearing, that 20 addresses accounted for half the complaints
28 was inconsistent with the representation in the Duginski Declaration that *more than* 50% of the
complaints came from just 13 addresses. (Duginski Decl., ¶ 5.)

1 result, as the basis for the materiality is categorically different. Unlike the County's PI Motion, the
2 District is not seeking directed and particularized relief (e.g., costs, subsidies, funds, etc.) for
3 expenses incurred by discrete individuals. The focus of these proceedings is simply to monitor and
4 abate the public nuisance odors and related air pollution violations. Chiquita argues that such
5 information would be material to "properly assess the scope of any odor nuisance conditions." But
6 none of the stipulated conditions have been predicated on odors reaching a particular household or
7 number of households. The conditions sought are instead based on odors impacting generalized
8 areas and neighborhoods—information which the District already provides to Chiquita.
9 Pinpointing which of the several houses complained is not likely to result in materially different
10 conditions. Whether an odor originated from Main Street or the northern-most home on Main
11 Street would have no impact on the number of wells needed within the reaction area, the number
12 of inspections required to monitor for leaking components, or the prohibition on having leachate
13 exposed to the atmosphere. (See Order for Abatement, Conditions 15, 69, 24.) Conditions are not
14 required based on the specific identity of complaining households, but as necessary and
15 appropriate to return the facility back to compliance with Health and Safety Code § 41700 and
16 District Rule 402.

17 Lastly, while there is no guarantee that these proceedings will remain stipulated, the Parties
18 have reached a stipulation at every hearing over the course of these proceedings, which has
19 spanned more than 2 years and includes over 100 substantive conditions. Accordingly, even if this
20 Board were to disagree with the District and hold that complainant address information and related
21 analysis would be material to a *contested* proceeding, and notwithstanding the District's other
22 arguments (e.g., that the information is privileged) and request for a protective order, this Board
23 should not issue a subpoena unless and until there is a reasonable prospect that a future hearing
24 will conclude on a contested basis.

25 **II. The Private Address Information Sought by the Subpoena is Privileged pursuant to**
26 **the Official Information Privilege (Evid. Code § 1040).**

27 Even if this Board finds that the requested information is material, Chiquita is not entitled to
28 information simply because it is helpful. Chiquita must additionally show that the information it

1 requests is not privileged. (Hearing Board Rule 9(a)(4)(B).) There is no mechanism within this
2 Board's rules that provide for a balancing of the requestor's need for the information against the
3 possessor's, or the public's, interest in keeping it confidential. (*See generally id.*) If the sought-for
4 material meets the requirements of a relevant privilege, the inquiry ends there. Accordingly, while
5 Chiquita may assert throughout its request that having such privileged information would assist in
6 its defense and analysis of the scope of potential conditions, that cannot overcome the material's
7 privileged nature which serves as a total bar to production under the Hearing Board Rules.

8 **A. The Requested Information is Privileged**

9 The requested information falls squarely within the Official Information Privilege. Official
10 information is any "information, acquired in confidence by a public employee in the course of his
11 or her duty and not open, or officially disclosed, to the public." (Evid. Code, § 1040(a).) The
12 private home address information of odor complainants is acquired in confidence by the District's
13 inspectors in the course of their investigative duties and is not open, or officially disclosed, to the
14 public.⁴ A public entity has a statutory "privilege to refuse to disclose official information" where
15 "disclosure of the information is against the public interest because there is a necessity for
16 preserving the confidentiality of the information that outweighs the necessity for disclosure in the
17 interest of justice." (Evid. Code, § 1040(b)(2).) The public interest balancing test favors the
18 District, rendering the official information privileged and immune from disclosure.

19 **i. Evidence Code § 1040's Balancing Test Clearly Favors Finding that the House**
20 **Numbers are Privileged Official Information and Not Subject to Disclosure.**

21 In order to show that disclosure is against the public interest, the District does not need to
22 identify that a particular harm will occur or that a particular person will be affected. The Court of
23 Appeal has expressly held that there need not be evidence of an individual being deterred from
24 making a complaint by the prospect of public disclosure in order to find that disclosure is against
25 the public interest. (*City of San Jose v. Superior Court* (1999) 74 Cal.App.4th 1008, 1024.) In

26 _____
27 ⁴ This privilege also applies to other information collected as part of a member of the public filing a
28 complaint with the South Coast AQMD, including but not limited to their name, phone number
and/or email address.

1 *City of San Jose*, the court weighed the public interest in disclosure against the public interest in
2 preserving the complainants' identities through the application of Government Code section 6255,
3 which is analogous to Evidence Code section 1040. There, the court found that "the public interest
4 in protecting the privacy interests of the complainants outweigh[ed] the public interest in
5 disclosure." (*City of San Jose*, 74 Cal.App.4th at 1021.) In that case, the Court held that the City
6 had already disclosed sufficient detail of noise complaints made regarding an airport when it
7 disclosed "the date, time, and nature of each complaint, as well as the city area where the
8 complaint originated." (*Id.* at 1024.)

9 Here, as stated above, the privileged house numbers are of little value to Chiquita. Thus,
10 Chiquita's request falls far short of making the required showing that the information is needed,
11 much less in the interest of justice. As Mr. Sullivan stated, the Confidential Data revealed
12 "[n]othing shocking. As I said, in terms of the general locations, where we thought we were seeing
13 more complaints..." (Sullivan Testimony, pgs. 90 and 91, lines 23-25 and 1-5, respectively). Mr.
14 Sullivan was asked by a Board Member, "You don't need to pinpoint the exact home that is
15 affected. You just need to know what's a hotspot area; correct?" (Sullivan Testimony, pg. 110,
16 lines 12-14.) Mr. Sullivan conceded that "we don't generally need to know exactly what home is
17 impacted in each case" and that information about "the block could definitely help narrow it
18 down." (Sullivan Testimony, pgs. 110 and 111, lines 15-17 and lines 9-12, respectively.) Clearly,
19 disclosure of the house numbers is not a necessity required in the interest of justice. Alternative,
20 less-intrusive levels of information would suffice. The mere fact that sufficient alternatives exist
21 precludes a finding of necessity. Moreover, the District already provides details of the odor
22 complaints above the level of the *San Jose* standard.

23 On the other end of the equation, the public's interest in protecting the privacy of its own
24 complaints is substantial. Indeed, this is not a circumstance where the District is protecting its own
25 internal communications or self-generated material. While that sort of information would likely
26 warrant similar protection from disclosure, it is key to recognize that confidential complainant data
27 originating from the *public*, and subsequent investigations into nuisances affecting the public,
28 represents the zenith of the public's interest. The interest, then, is not just that of the District as a

1 government agency, but of the public itself. The public has the courage to make complaints with
2 the expectation that their identifying information will be kept confidential, and keeping such
3 information confidential is critical to redressing the public's complaints. While providing virtually
4 no utility for Chiquita, ordered disclosure of private address information will only serve to chill the
5 lodging of legitimate complaints, because those potential complainants will have the
6 foreknowledge that their personal data will be given away to the accused violator.

7 The risk of harm is very real here. Chiquita has been aggressively transparent about its true
8 intent for this data. As Mr. Sullivan stated, "there are certain homes that are complaining a large
9 number of times; we'd like to know *why* that particular address is seeing so much impact."
10 (Sullivan Testimony, pg. 110, lines 21-23 (emphasis added).) It's clear that Chiquita has no intent
11 to stop at merely analyzing the data, it seeks to target the persons at these addresses who are the
12 source of the complaints. This is unsurprising, as Chiquita has a track record of targeting members
13 of the community who it believes may be responsible for odor complaints. As recently as June
14 2025, Chiquita placed flyers in the mailboxes of residences near the landfill for purposes of
15 influencing the public. This flyer claimed that "there are no risks to public safety," that the
16 information coming from public representatives was "misinformation," and that Chiquita had "an
17 obligation to provide the facts about the landfill by *communicating directly* with our neighbors."
18 (Roberts Decl., Exhibit 9: Flyer and Email (emphasis added).) As articulated by the affected
19 community member, the flyer was perceived by the public as "attempting to distort the findings
20 and truth of the government agencies working on this crisis." (*Id.*) While the District only needs to
21 show the "likely effect" disclosure will have based on ordinary and generalized "human
22 experience," (*see City of San Jose*, 74 Cal.App.4th at 1024), Chiquita's past practice demonstrates
23 a specific and articulable likelihood that private address information will be used to directly and
24 unduly influence members of the community who regularly seek to complain against it.

25 Chiquita has ultimately failed to show that the Official Information balancing test weighs in
26 its favor. Chiquita has not shown a compelling need for information beyond the street location of
27 the complaint, and any meager need for house numbers as articulated by Chiquita is substantially
28 outweighed by the compelling public interest in protecting the personal identities and privacy of

1 complainants. Since the balancing test heavily favors the District, the related information is
2 privileged and immune from disclosure. Accordingly, the related subpoena must be quashed for
3 seeking privileged information in contravention of Hearing Board Rule 9(1)(4)(B).

4 **B. The District has Not Waived the Protections of the Official Information Privilege**

5 Chiquita misleadingly states that the private house numbers are not privileged because
6 “South Coast AQMD has selectively relied on portions of this data throughout these proceedings
7 and has disclosed this type of data to other agencies for their use in other litigation.” (Duginski
8 Decl., ¶ 7.) In doing so, Chiquita implies that the District has betrayed the privileged status of the
9 subpoenaed-for information or impliedly waived any such status. Nothing could be further from
10 the truth.

11 First, the District has never provided, submitted, introduced, or relied upon private house
12 numbers as the basis for the requested abatement order or any of its conditions. As Chiquita earlier
13 points out, the District has presented only “limited analysis of the complaint data...without
14 analysis of the addresses or locations of the complaints.” (Duginski Decl., ¶ 3.) As stated, “Mr.
15 Israel did not provide any additional information or analysis related to the addresses or location of
16 the complaints.” (*Id.*) Indeed, Supervising Inspector Israel did not testify as to any privileged or
17 withheld private house numbers. He only testified as to the number of complaints and the
18 neighborhoods impacted by the odors. The District already provides Chiquita with this level of
19 complaint data, including the date, time, street name, city, zip code, unique complaint number, and
20 disposition of the complaint. Unlike private house numbers, the District does not assert any
21 Official Information Privilege over these voluntarily disclosed parameters. Thus, it is not true that
22 the District relied upon private house numbers or impliedly waived their privileged status.

23 Second, South Coast AQMD has only ever provided complaint data with private addresses
24 to the County. The District provided the County with the Confidential Data pursuant to the
25 “CICA.” (Roberts Decl., Exhibit 1 and Exhibit 4.) The CICA expressly states that the Parties to
26 that agreement may “share confidential and privileged information . . . without waiving the
27 confidential, privileged, or exempt status.” (Roberts Decl., Exhibit 1, ¶ 2.) The District and the
28 County (including its retained outside counsel, Meyer’s Nave) are parties to the CICA and are

1 afforded its protections. (Roberts Decl., Exhibit 1.) In disclosing the Confidential Data to the
2 County, the District expressly designated the material as confidential and made the disclosure in
3 conformity with the CICA. (Roberts Decl., Exhibit 4.) Accordingly, the Confidential Data is
4 protected by the CICA from any arguments regarding waiver of applicable privilege(s).

5 Moreover, the District shared the Confidential Data with the County under the express
6 understanding that the County would seek a Protective Order in its federal litigation to both
7 preserve its privileged status and limit further release of this Confidential Data. (Roberts Decl., ¶
8 7.) The County did, in fact, obtain such Protective Order. That Protective Order explicitly
9 designated home addresses and names of complaining persons as confidential information, which
10 Chiquita agreed warranted “special protection from public disclosure and from use *for any purpose*
11 *other than litigating the PI Motion is warranted.*” (Roberts Decl., Exhibit 2, §§ 1.2, 2.3 (emphasis
12 added).) The District’s act of providing the Confidential Data to the County, then, did not waive
13 any privilege because it was protected by both the CICA and the Protective Order. Accordingly,
14 Chiquita’s assertion that this material is not privileged because it has been given to the County is
15 wrong. And because Chiquita has failed to establish the material is not privileged, its subpoena
16 fails. (Hearing Board Rule 9(a)(4)(B).)

17 **III. Complying with a Subpoena to Provide the “Description of the Odor” will**
18 **Constitute an Undue Burden on the District**

19 In addition to requesting private address information, Chiquita also seeks the “description of
20 the odor.” (Duginski Decl., Exhibit A.) There is, however, no such discrete line-item maintained in
21 the District’s internal systems. The “description” maintained by the District is whatever
22 information the caller or complainant provided when they lodged their complaint. Similar to a 911
23 call, such descriptions can be a jumble of information, including private address information,
24 contact information such as telephone number and email, the persons first and last name, and
25 descriptions of the odor. To provide just the “description of the odor,” the District would have to
26 individually examine each and every complaint description to determine whether redaction of
27 personal identifying information (PII), or other privileged information, is necessary. This
28 examination and redaction process would be unduly burdensome. The District receives hundreds,

1 and sometimes thousands, of complaints attributed to Chiquita every month. (Roberts Decl., ¶ 15.)

2 **IV. Should a Subpoena be Issued, a Protective Order is Warranted**


3 To the extent that this Board denies the District's motion to quash, the District would,
4 nonetheless, request that any subpoena be accompanied by a protective order. As stated above,
5 public disclosure of private home addresses would chill the lodging of legitimate complaints, and
6 Chiquita has (1) demonstrated a predilection towards using information outside the confines of the
7 proceedings within which it receives such information, and (2) engaged in actions designed to
8 influence potential complainants. Accordingly, any such disclosure must be accompanied by a
9 sufficiently stringent protective order. Such protective order should (1) restrict Chiquita from using
10 the provided data for any purpose whatsoever outside of the instant proceedings before this Board;
11 (2) prohibit Chiquita from providing it to any employee or contractor unless reasonably necessary
12 for that person to be able to perform hearing-related analysis; (3) prohibit Chiquita from using the
13 data and related analysis for any purpose other than making or refuting a contested finding at a
14 Hearing Board proceeding; and (4) prohibit Chiquita from introducing the private addresses into
15 the public record of this or any other proceeding.

16 **CONCLUSION**

17 Based on the foregoing, the District respectfully requests an order quashing the following
18 requests in Chiquita's Subpoena served on the District as they appear in the Duginski Declaration,
19 Exhibit A: Requests 1, 2, 3, and 4. Chiquita has not, and cannot, demonstrate entitlement to that
20 discovery.

21
22 DATED: December 23, 2025

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