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David W. Slayton,
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5 Attorneys for Petitioner,
6 Californians for Homeownership, Inc.

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8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **FOR THE COUNTY OF LOS ANGELES**

10
11 CALIFORNIANS FOR
HOMEOWNERSHIP, INC., a California
12 nonprofit public benefit corporation,

13 Petitioner,

14 v.

15 CITY of BEVERLY HILLS,

16 Respondent.

17 9300 WILSHIRE, LLC,

18 Real Party in Interest.
19

Case No. **24STCP02082**

**VERIFIED PETITION FOR
WRIT OF MANDATE**

[C.C.P. § 1094.5; Gov. Code § 65589.5]

20 **INTRODUCTION**

21 Petitioner Californians for Homeownership, Inc. alleges as follows:

22 1. California is in the midst of a “housing supply and affordability crisis of historic
23 proportions,” and that crisis is driven in major part by “activities and policies of many local
24 governments that limit the approval of housing” (Gov. Code § 65589.5(a).)

25 2. The law requires cities to zone for housing to meet regional housing needs. Beverly
26 Hills failed to do so, exposing it to state law limits when considering applications to build housing.

27 3. In violation of these limits, the City denied an proposal for a mixed-income project
28 with 165 new homes. Petitioner seeks to overturn that denial under the Housing Accountability Act.

PARTIES

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2 4. Petitioner Californians for Homeownership, Inc. (“Californians”) is a California
3 nonprofit public benefit corporation and 501(c)(3) public charity. Its mission is to address
4 California’s housing crisis through litigation in support of the production of housing affordable to
5 families at all income levels.

6 5. Californians is a “housing organization” under Government Code Section 65589.5
7 because it is “a nonprofit organization whose mission includes . . . advocating for increased access
8 to housing for low-income households” and because it filed written comments with the City prior to
9 the decision at issue in this Petition.

10 6. Respondent City of Beverly Hills is a city situated Los Angeles County. Through its
11 legislative body, the Beverly Hills City Council, it rejected the project at issue in this Petition.

JURISDICTION AND VENUE

13 7. The Court has general subject matter jurisdiction over this action pursuant to Code of
14 Civil Procedure Section 1094.5 and Government Code Section 65589.5.

15 8. The Court has personal jurisdiction over the City of Beverly Hills pursuant to Code
16 of Civil Procedure Section 410.10.

17 9. Venue for this action properly lies with this Court pursuant to Code of Civil
18 Procedure Section 394.

THE HOUSING ACCOUNTABILITY ACT

20 10. In recent years, the California Legislature has sought to address what it has described
21 as a “housing supply and affordability crisis of historic proportions.” Gov. Code 65589.5(a)(2).
22 “The consequences of failing to effectively and aggressively confront this crisis are hurting millions
23 of Californians, robbing future generations of the chance to call California home, stifling economic
24 opportunities for workers and businesses, worsening poverty and homelessness, and undermining
25 the state’s environmental and climate objectives. While the causes of this crisis are multiple and
26 complex, the absence of meaningful and effective policy reforms to significantly enhance the
27 approval and supply of housing affordable to Californians of all income levels is a key factor.” *Id.*
28 (subdivision numbers omitted).

1 11. As a result of the housing crisis, younger Californians are being denied the
2 opportunities for housing security and homeownership that were afforded to previous generations.
3 Families across economic strata are being forced to rent rather than experience the wealth-building
4 benefits of homeownership.¹ Many middle and lower income families devote more than half of their
5 take-home pay to rent, leaving little money to pay for transportation, food, healthcare and other
6 necessities.² Unable to set aside money for savings, these families are also at risk of losing their
7 housing in the event of a personal financial setback. Indeed, housing insecurity in California has led
8 to a mounting homelessness crisis.³

9 12. Beyond the human toll, California’s housing crisis harms the environment. “[W]hen
10 Californians seeking affordable housing are forced to drive longer distances to work, an increased
11 amount of greenhouse gases and other pollutants is released and puts in jeopardy the achievement of
12 the state’s climate goals.” Gov. Code § 65584.

13 13. At the core of California’s affordable housing crisis is a failure to build enough
14 housing to meet demand. California’s Legislative Analyst’s Office estimates that the state should
15 have been building approximately 210,000 units a year in major metropolitan areas from 1980 to
16 2010 to meet housing demand. Instead, it built approximately 120,000 units per year.⁴ Today,
17 California ranks 49th out of the 50 states in existing housing units per capita.⁵

18 14. California’s housing crisis has been building for decades. The Legislature has
19 recognized that the crisis is driven, in part, “by activities and policies of many local governments
20 that limit the approval of housing, increase the cost of land for housing, and require that high fees
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23 ¹ California Department of Housing and Community Development, *California’s Housing
24 Future: Challenges and Opportunities: Final Statewide Housing Assessment 2025* (2018), available
at http://www.hcd.ca.gov/policy-research/plans-reports/docs/SHA_Final_Combined.pdf, at 18-19.

25 ² *Id.* at 27.

26 ³ *Id.* at 3, 48-50.

27 ⁴ Legislative Analyst’s Office, *California’s High Housing Costs: Causes and Consequences*
(2015), available at <https://lao.ca.gov/reports/2015/finance/housing-costs/housing-costs.pdf>, at 21.

28 ⁵ McKinsey & Company, *A Tool Kit to Close California’s Housing Gap: 3.5 Million Homes
By 2025* (2016), available at [https://www.mckinsey.com/~/_/media/
mckinsey/featured_insights/Urbanization/Closing_Californias_housing_gap/Closing-Californias-
housing-gap-Full-report.ashx](https://www.mckinsey.com/~/_/media/mckinsey/featured_insights/Urbanization/Closing_Californias_housing_gap/Closing-Californias-housing-gap-Full-report.ashx), at document page 6.

1 and exactions be paid by producers of housing.” Gov. Code §65589.5(a)(1)(B).

2 15. As part of its efforts to address the crisis in the 1980s, the legislature passed the
3 Housing Accountability Act (the “HAA,” often called the “anti-NIMBY⁶ law”), which limits the
4 ability of localities to reject proposed housing development projects. Gov. Code §65589.5. In
5 recent years, the Legislature has strengthened the HAA. *E.g.*, Stats. 2016 c. 420 (A.B. 2584) § 1;
6 Stats. 2017 c. 378 (A.B. 1515) As amended, the HAA limits local review of housing development
7 projects in multiple ways.

8 16. The HAA contains a statement of intent regarding its interpretation: “It is the policy
9 of the state that [the HAA] be interpreted and implemented in a manner to afford the fullest possible
10 weight to the interest of, and the approval and provision of, housing.” Gov. Code
11 § 65589.5(a)(2)(L).

12 17. The HAA applies to residential developments, including “[m]ixed-use developments
13 consisting of residential and nonresidential uses with at least two-thirds of the square footage
14 designated for residential use.” Gov. Code § 65589.5(h)(2).

15 18. If a project qualifies as a “a housing development project . . . for very low, low-, or
16 moderate-income household” as defined by the HAA, a city is required to approve it unless the city
17 can satisfy its burden of demonstrating, by a preponderance of the evidence, the applicability of one
18 of the exceptions in subdivisions (d)(1) through (d)(5) of Section 65589.5.

19 19. If a city has not adopted a general plan housing element that substantially complies
20 with state law, it is further prohibited from using subdivision (d)(1) or (d)(5) of Section 65589.5 to
21 reject a project.

22 20. Under the HAA, the governing body of a city “disapproves” a housing development
23 project when it “[v]otes on a proposed housing development project application and the application
24 is disapproved, including any required land use approvals or entitlements necessary for the issuance
25 of a building permit.” Gov. Code § 65589.5(h)(6).

26 21. “Housing for very low, low-, or moderate-income households” is defined as a project
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28 ⁶ NIMBY stands for “Not In My Backyard.”

1 where at least 20% of the total units are reserved for lower income households or 100% of the total
2 units are reserved for moderate income households. Gov. Code § 65589.5(h)(3).

3 22. The HAA provides an express private right of action to challenge the disapproval of a
4 housing development to any “housing organization.” Gov. Code § 65589.5(k)(1)(A). A “‘housing
5 organization’ means a trade or industry group whose local members are primarily engaged in the
6 construction or management of housing units or a nonprofit organization whose mission includes
7 providing or advocating for increased access to housing for low-income households and have filed
8 written or oral comments with the local agency prior to action on the housing development project.”
9 Gov. Code § 65589.5(k)(2).

10 23. “A housing organization shall be entitled to reasonable attorney’s fees and costs if it
11 is the prevailing party in an action to enforce” the HAA. Gov. Code § 65589.5(k)(2).

12 24. An action to enforce the HAA is brought under Code of Civil Procedure Section
13 1094.5. Gov. Code § 65589.5(m).

14 25. “In any action taken to challenge the validity of a decision by a city, county, or city
15 and county to disapprove a project . . . pursuant to [the HAA], the city, county, or city and county
16 shall bear the burden of proof that its decision has conformed to all of the conditions specified in
17 [the HAA].” Gov. Code § 65589.6.

18 **FACTS**

19 *The Project*

20 26. The Project is a proposed mixed-use, mixed-income development at 125-129 S.
21 Linden Drive in Bevely Hills.

22 27. The residential component of the Project is proposed to contain 165 units of housing,
23 with 20% of the units to be reserved for rental to lower income households.

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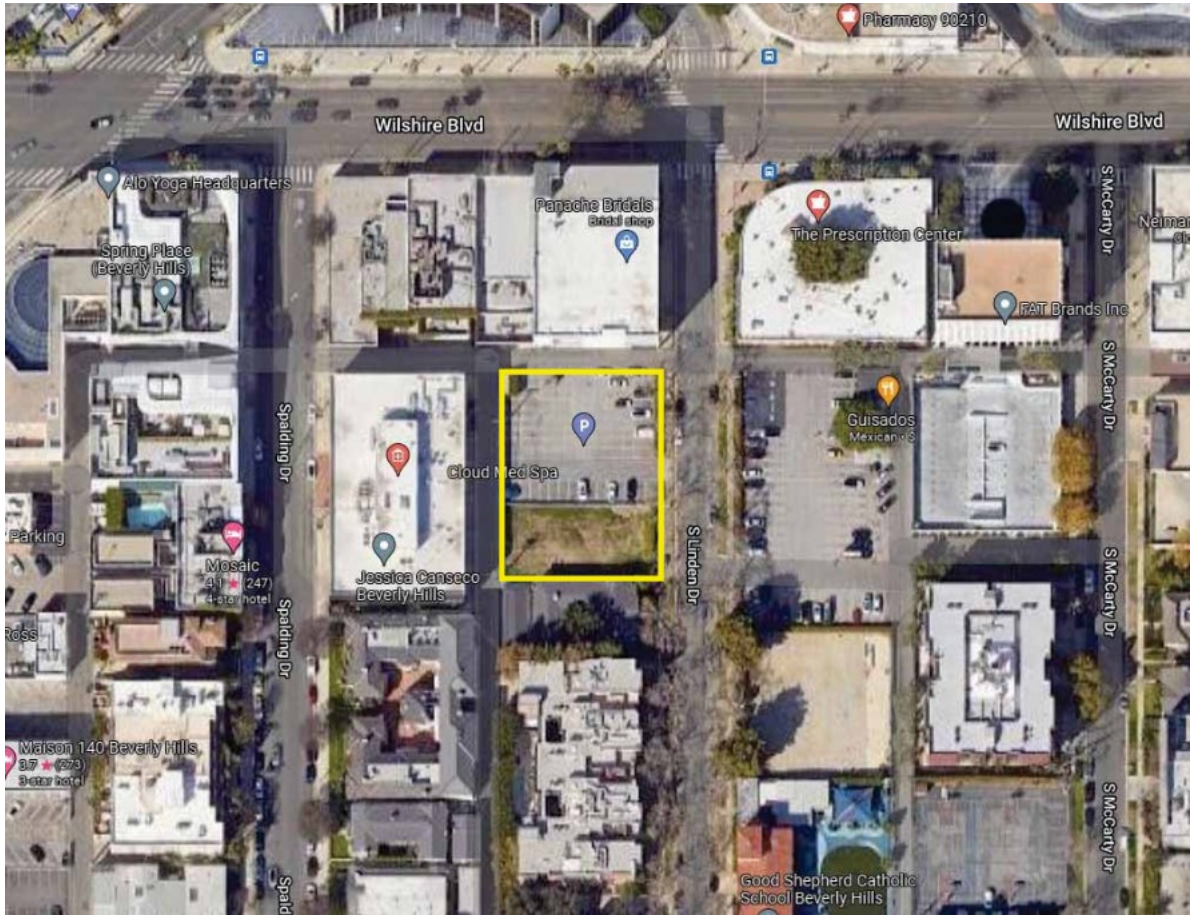
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28. The Project would be situated approximately as indicated in yellow:



Administrative Proceedings

29. On October 24, 2022, a preliminary application was filed for the Project.

30. On April 14, 2023, a full application was filed for the Project.

31. On October 10, 2023, Californians for Homeownership sent the City a letter supporting the application.

32. The application to develop the Project was deemed incomplete by City staff, on the primary basis that the applicant was required to file for a zone change and general plan amendment in connection with the Project.

33. The applicant appealed the incompleteness determination.

34. On February 20, 2024, Petitioner sent the City a letter supporting the appeal.

35. On June 26, 2024, the California Department of Housing and Community Development sent the City a letter supporting the appeal.

1 36. On June 27, 2024, prior to the Beverly Hills City Council’s meeting on that date,
2 Petitioner sent the City Council a letter supporting the appeal.

3 37. At its June 27, 2024 meeting, the City Council upheld the incompleteness
4 determination.

5 **FIRST CAUSE OF ACTION**
6 **Administrative Mandate (C.C.P. § 1094.5)**
7 **For Violation of the Housing Accountability Act, Gov. Code § 65589.5**

8 38. Californians incorporates and realleges all of the foregoing paragraphs.

9 39. The Project is a “housing development project” under the HAA because it is a
10 “[m]ixed-use development[] consisting of residential and nonresidential uses with at least two-thirds
11 of the square footage designated for residential use.” Gov. Code § 65589.5(h)(2).

12 40. The Project is “[h]ousing for very low, low-, or moderate-income households” under
13 the HAA because “at least 20 percent of the total units shall be sold or rented to lower income
14 households” Gov. Code § 65589.5(h)(3).

15 41. Under the HAA, the governing body of a city “disapproves” a housing development
16 project when it “[v]otes on a proposed housing development project application and the application
17 is disapproved, including any required land use approvals or entitlements necessary for the issuance
18 of a building permit.” Gov. Code § 65589.5(h)(6).

19 42. Because the City has not adopted a general plan housing element that substantially
20 complies with state law, it is prohibited from using subdivision (d)(1) or (d)(5) of Section 65589.5 to
21 deny the application to develop the Project. Thus, the City cannot rely merely on zoning or general
22 plan inconsistency to deny the application.

23 43. Thus, for purposes of the HAA, the City Council’s decision to uphold the
24 incompleteness determination constituted a disapproval of the Project. The City is refusing to
25 process an application covered by the HAA and insisting that the applicant proceed with a different
26 application requiring a legislative act by the City Council. The City Council has voted on the
27 application, and that vote is substantively identical to a vote to deny the Project based on general
28 plan and zoning inconsistency.

1 44. The City has not made written findings demonstrating, by a preponderance of the
2 evidence, the applicability of one of the exceptions in subdivisions (d)(2) through (d)(4) of Section
3 65589.5.

4 45. Californians is a “housing organization” under the HAA because it is a “nonprofit
5 organization whose mission includes providing or advocating for increased access to housing for
6 low-income households” and it “filed written . . . comments with the local agency prior to action” on
7 the Project. Gov. Code § 65589.5(k)(2).

8 46. In rejecting the Project, the City acted in bad faith and willfully violated the HAA
9 because, among other things, it attempted to insulate the City from HAA liability by disguising a
10 denial as an incompleteness determination.

11 47. There is no lawful basis for the City’s incompleteness determination under the Permit
12 Streamlining Act, which authoritatively governs completeness determinations.

13 48. Californians has no available administrative remedies.

14 49. Californians has no plain, speedy or adequate remedy at law, other than the relief
15 sought herein.

16 50. Accordingly, Californians is entitled to a writ of mandate directing the City to
17 approve the application to develop the Project. In the alternative, Californians is entitled to a writ of
18 mandate voiding the City’s decision and directing the City to reconsider the Project in a manner that
19 conforms to the requirements of the HAA.

20 **PRAYER**

21 WHEREFORE, Petitioner prays for relief as follows:

22 1. A writ of mandate directing the City of Beverly Hills to approve the application to
23 develop the Project, or in the alternative, a writ of mandate voiding the City’s decision and directing
24 the City to reconsider the application in a manner that conforms to the requirements of state law;

25 2. Costs of suit;

26 3. Attorneys’ fees as allowed by law, including under Government Code Section
27 65589.5(k)(2);

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4. Such other and further relief as the Court deems just and proper.

Dated: June 28, 2024

Respectfully Submitted,

CALIFORNIANS FOR HOMEOWNERSHIP, INC.

By 
Matthew P. Gelfand

Attorneys for Petitioner,
Californians for Homeownership, Inc.

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VERIFICATION

I, Matthew P. Gelfand, declare:

1. I hold the position of Counsel at Petitioner Californians for Homeownership, Inc., and am familiar with the matters discussed in the foregoing Petition.
2. I have read the Petition and know the contents thereof. The statements of fact therein are true and correct of my own knowledge.

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

Executed on June 28, 2024 at Los Angeles, California.



Matthew P. Gelfand