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SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF ORANGE - CIVIL COMPLEX

OLEN PROPERTIES CORP., a Florida corporation,

Petitioner,

v.

CITY OF NEWPORT BEACH, and DOES 1-10, inclusive,

Respondents.

TPG (KCN) ACQUISITION, LLC, a Delaware limited liability company, and DOES 11-20, inclusive,

Real Parties in Interest.

Case No. 30-2021-01185991-CU-WM-CXC

ASSIGNED FOR ALL PURPOSES TO:
HON. KIRK H. NAKAMURA
DEPARTMENT CX-103

DECLARATION OF SONJA TRAUSS IN SUPPORT OF YIMBY LAW, PEOPLE FOR HOUSING ORANGE COUNTY (A CHAPTER OF YIMBY ACTION), AND CALIFORNIANS FOR HOMEOWNERSHIP, INC.'S MOTION FOR LEAVE TO INTERVENE AS REAL PARTIES IN INTEREST

Date: x
Time: 2:00 p.m.
Dept.: CX-103

Reservation No.: x

Action Filed: February 25, 2021
Trial Date: None Set.

I, Sonja Trauss, declare:

1. I am the founder and executive director of YIMBY Law, which seeks to intervene in this matter. I have personal knowledge of the facts stated below, and if called upon as a witness, I could and would testify as follows:

2. California is suffering from a housing supply shortage of epic proportions. Among the major causes of this shortage are the failure of local governments to approve enough new housing, especially affordable housing, to meet demand, and resistance to new housing by neighboring homeowners. Californians have experienced firsthand the devastating consequences of this housing shortage. They have endured skyrocketing rents that made the cost of living unbearable, been forced to relocate to communities far from their jobs and schools, and delayed life decisions like marriage or having children because of housing insecurity. They have found homeownership unattainable and been shut out of communities with jobs and good schools.

3. Fortunately, California has several state laws that seek to overcome local resistance to new housing and increase the housing supply at all levels of affordability, including the Housing Element or Regional Housing Needs Assessment/Allocation (RHNA) law, the Housing Accountability Act (HAA), and others. But these laws only matter if someone is willing and able to enforce them. That is YIMBY Law's mission. YIMBY Law is a 501(c)(3) charitable non-profit organization dedicated to make housing more accessible and affordable by promoting and enforcing compliance with state housing law in California. YIMBY Law enforces state laws such as those mentioned above by advising agencies of their obligations under state law, and filing lawsuits against those agencies when they fail to comply. Examples of some of our recent cases include litigation against the city of Simi Valley for denying a residential care facility for seniors in violation of the HAA, and litigation against the state Department of Housing and Community Development for assigning a Regional Housing Need Assessment for the San Francisco Bay Area that is too low, in violation of state law.

4. The voices of families in need of housing have traditionally been absent and ignored in litigation involving housing and environmental issues, as developers, cities, and

neighborhood groups litigate their respective concerns while no one speaks for the people in need of housing. YIMBY Law's role is to provide that voice.

5. As part of the RHNA process, every local government in California is required to make plans to accommodate its fair share of the regional need for affordable housing in the "housing element" of its general plan. YIMBY Law organizes and provides technical assistance to pro-housing activists all over California who are interested in advocating for housing elements that realistically plan for housing, and that distribute affordable and dense housing equitably across cities. We also organized the Campaign for Fair Housing Elements, a collaborative effort by housing advocates around the state to monitor and ensure cities' compliance with their RHNA obligations.

6. Even when cities are willing and able to meet their obligations under state law and provide needed housing, their compliance may still be frustrated if neighboring homeowners or others can block or delay housing projects by strategically using laws such as the California Environmental Quality Act ("CEQA"). For instance, cities may plan to entitle housing on certain sites to meet their Regional Housing Needs Allocations, only to then face CEQA lawsuits seeking to block housing on those same sites. It is documented that CEQA lawsuits are often used to obstruct dense housing projects, especially in job centers. These lawsuits threaten to undermine efforts of the state legislature to increase the housing supply generally and to concentrate housing in areas that are job centers.

7. Newport Beach is a high-cost coastal city in Orange County, with proximity to jobs and good schools. In the upcoming 2021-2029 RHNA cycle, Newport Beach has been assigned a RHNA allocation of 4,845 homes, including 1,456 very low-income homes and 930 low-income homes.[1] As part of the RHNA process, Newport Beach is required to identify sites in the city that can accommodate all of these homes. The city planning staff is currently drafting the needed updates to the city's housing element, and has posted on the city's website a draft housing

[1] SCAG 6th Cycle Final RHNA Allocation Plan at 3, available at: https://scag.ca.gov/sites/main/files/file-attachments/6th-cycle-rhna-proposed-final-allocation-plan.pdf?1614023284

element, including an analysis of sites that are suitable and likely to be developed for housing to accommodate some share of the city's RHNA allocation of 4,845 new homes.[2]

8. The city's draft housing element sites analysis identifies the recently approved Residences at 4400 Von Karman project as a project that is very likely to be developed during the next planning cycle. The project provides 312 homes, including 13 homes that are affordable for very-low income families. The project is consistent with all the applicable objective standards in the city's general plan as well as the Koll-Conexant Integrated Conceptual Development Plan ("ICDP"), both of which were approved with a full Environmental Impact Report ("EIR") more than a decade ago. The city's draft housing element sites analysis credits the project's 13 very-low homes towards its RHNA share of 1,456 very low-income homes for the upcoming cycle. (Appendix B: Sites Analysis at B-4; B-17.)

9. Through our Campaign for Fair Housing Elements, YIMBY Law participated in Newport Beach's housing element update process. We collaborated with People for Housing Orange County to submit public comments on the current draft of the city's housing element. YIMBY Law's comment letter is attached as **Exhibit 1** to this declaration.

10. YIMBY Law is a strong supporter of the Residences at 4400 Von Karman project at issue in this litigation, and submitted a letter to the city council expressing its support. YIMBY Law's mission is to protect the integrity of the RHNA process and to ensure that cities comply with the HAA by approving housing projects that meet all of their applicable objective criteria. As described more fully in the letter of support, attached as **Exhibit 2** to the Trauss Declaration, YIMBY Law advised the city council that it was prohibited from disapproving the project under the HAA, because the project met all of the city's applicable objective development criteria.

[2] City of Newport Beach Draft Housing Element March 10, 2021, available at: https://www.newportbeachca.gov/government/departments/community-development/planning-division/general-plan-codes-and-regulations/general-plan-update/housing-element-screencheck-draft-march-10-2020; Appendix B: Site Analysis, available at: https://www.newportbeachca.gov/PLN/Housing_Element_Update/March_10_2021_Draft/AppendixBSites_Analysis.pdf.

11. YIMBY Law has an interest in ensuring that sites designated for housing in a city's housing element and compliant with all of a city's applicable objective development standards will actually accommodate housing. If this lawsuit is successful, it will frustrate Newport Beach's ability to meet its RHNA goals, frustrate the aim of the HAA to ensure that compliant projects are approved, and undermine the work of groups like YIMBY Law to ensure that high-opportunity cities such as Newport Beach accommodate their fair share of the regional need for housing.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct of my own personal knowledge and that this declaration was executed on _____, 2021, at _____, California.

By: _____
Sonja Trauss
Executive Director, YIMBY Law