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NO FEE
Pursuant to Government Code Section 6103

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF ALAMEDA

YES IN MY BACK YARD, a California nonprofit corporation; YIMBY ACTION, a California nonprofit corporation; SONJA TRAUSS, an individual; ROBERT KATTOUW, an individual; ELIZABETH CONLAN, an individual; ZACCARIAH BOWLING, an individual; STEVEN BUSS, an individual, Petitioners and Plaintiffs, **v.** **CALIFORNIA DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT,** Respondent and Defendant.	Case No. RG21087783 **ANSWER TO PETITION FOR WRIT OF MANDATE (CCP § 1085); COMPLAINT FOR DECLARATORY RELIEF (CCP § 1060)** Dept: 17 Judge: The Honorable Frank Roesch Trial Date: N/A Action Filed: February 4, 2021

Respondent and defendant California Department of Housing and Community Development (HCD) hereby answers the allegations set forth in petitioners and plaintiffs Yes In My Back Yard, YIMBY Action, Sonja Trauss, Robert Kattouw, Elizabeth Conlan, Zaccariah

Bowling, and Steven Buss's Petition for Writ of Mandate (CCP § 1085); Complaint for Declaratory Relief (CCP § 1060), as follows[1]:

1. Answering the allegations set forth in paragraphs 1-7, 9-13, HCD lacks sufficient information and belief to respond to the allegations therein, and on that basis denies the allegations.

2. Answering the allegations set forth in paragraph 8, HCD admits the allegations therein.

3. Answering the allegations set forth in paragraphs 14-24, the California statutes cited therein speak for themselves. To the extent that the allegations in these paragraphs consist of opinion, argument, summaries or interpretations of law, and/or are not allegations of ultimate fact supporting valid causes of action, HCD denies the allegations.

4. Answering the allegations set forth in paragraph 25, HCD admits that it received a letter from the Association of Bay Area Governments (ABAG) dated May 28, 2020, containing consultation materials associated with the sixth Regional Housing Needs Allocation process. The contents of the letter speaks for itself, as does the California statute cited in paragraph 25. HCD denies the remainder of allegations set forth in paragraph 25.

5. Answering the allegations set forth in paragraph 26, the "letter dated June 9, 2020," as well as the California statutes cited in paragraph 26, speak for themselves. The remainder of the allegations consist of legal argument, conclusions and/or conjecture to which no response is required; to the extent a response is required, HCD denies the allegations therein. In particular, HCD denies that it "failed to consider" the relationship between jobs and housing in the ABAG RHND. With respect to the "HCD REGIONAL HOUSING NEED DETERMINATION" chart, the chart speaks for itself.

6. Answering the allegations set forth in paragraph 27, HCD denies that it "failed to consider the relationship between jobs and housing in the Bay Area," and further denies "that the projected housing needs in the ABAG RHND were severely underestimated." The remainder of

[1] All capitalized terms not defined herein shall have the same meaning as set forth in the Petition.

the allegations consist of legal argument, conclusions and/or conjecture, to which no response is required; to the extent a response is required, HCD denies the allegations therein.

7. Answering the allegations set forth in paragraph 28, HCD admits that ABAG's overall RHND increased by 135% since its last determination, but denies that an overall—as opposed to an annualized—calculation is the appropriate metric. HCD denies that the Southern California Association of Governments RHND increased by 229%. The remainder of the allegations consist of legal argument, conclusions and/or conjecture, to which no response is required; to the extent a response is required, HCD denies the allegations therein. In particular, HCD denies that the regional differences have any legal significance.

8. Answering the allegations set forth in paragraph 29, HCD admits that "ABAG had an opportunity to appeal the ABAG RHND for 30 days after its issuance" and further admits that ABAG "decided against appealing." HCD lacks sufficient information and belief to respond to the remaining allegations in paragraph 29, and on that basis denies the allegations.

9. Answering the allegations set forth in paragraph 30, HCD admits the allegations therein.

10. Answering the allegations set forth in paragraph 31, the Commission hereby incorporates by reference its responses to paragraphs 1-30, as though set forth in full.

11. Answering the allegations set forth in paragraph 32, the allegations consist entirely of legal argument, conclusions and/or conjecture, to which no response is required; to the extent a response is required, HCD denies the allegations therein.

12. Answering the allegations set forth in paragraph 33, HCD denies that it "failed to consider the Bay Area jobs-housing relationship, including any imbalance thereof, in the ABAG RHND" and further denies that HCD has a policy, pattern, and practice "not to consider the relationship between jobs and housing, including any imbalance thereof, in its methodology for ABAG's past and present RHNDs." The remainder of the allegations consist of legal argument, conclusions and/or conjecture, to which no response is required; to the extent a response is required, HCD denies the allegations therein.

13. Answering the allegations set forth in paragraph 34, the allegations consist entirely of legal argument, conclusions and/or conjecture, to which no response is required; to the extent a response is required, HCD denies the allegations therein.

14. Answering the allegations set forth in paragraph 35, the allegations consist entirely of legal argument, conclusions and/or conjecture, to which no response is required; to the extent a response is required, HCD denies the allegations therein.

15. Answering the allegations set forth in paragraph 36, HCD hereby incorporates by reference its responses to paragraphs 1-35, as though set forth in full.

16. Answering the allegations set forth in paragraph 37, the allegations consist entirely of legal argument, conclusions and/or conjecture, to which no response is required; to the extent a response is required, HCD denies the allegations therein.

17. Answering the prayer for relief, HCD denies that petitioners are entitled to any of the relief they request, or any other type of relief. HCD denies any further allegations not specifically admitted in this Answer.

AFFIRMATIVE DEFENSES

As separate and affirmative defenses, HCD alleges as follows:

First Affirmative Defense

(Failure to State a Claim)

HCD alleges that petitioners failed to allege facts sufficient to support any claim for relief.

Second Affirmative Defense

(Lawful Exercise of Discretion and Compliance with Law)

HCD alleges that it lawfully exercised its discretion and fully complied with all applicable laws.

Third Affirmative Defense

(Failure to Name Indispensable Parties)

HCD alleges that petitioners failed to name indispensable parties in its petition including, but not limited to, ABAG.

Fourth Affirmative Defense

(Ripeness)

HCD alleges that petitioners' claims are not ripe.

Fifth Affirmative Defense

(Mootness)

HCD alleges that petitioners' claims are moot.

Sixth Affirmative Defense

(Failure to Exhaust Administrative Remedies)

HCD alleges that petitioners failed to exhaust all available administrative remedies and based upon that failure, this court lacks jurisdiction to consider their claims.

Seventh Affirmative Defense

(Lack of Standing)

HCD alleges that petitioners lack standing to assert their claims or causes of action.

Eighth Affirmative Defense

(Statute of Limitations)

HCD alleges that petitioners' claims for relief are barred by the statute of limitations, including, but not limited to, Government Code section 65584.01, subdivision (c).

Ninth Affirmative Defense

(Adequate Remedy at Law)

HCD alleges that petitioners have an adequate remedy at law.

Tenth Affirmative Defense

(Waiver/Estoppel)

HCD alleges that petitioners' claims for relief are barred by the doctrines of waiver and/or estoppel.

Eleventh Affirmative Defense

(Laches)

HCD alleges that petitioners' claims for relief are barred because they delayed in bringing such claims to the detriment of HCD.

Twelfth Affirmative Defense

(No Justiciable Controversy)

HCD alleges that petitioners failed to allege a justiciable controversy in order to be entitled to seek declaratory relief.

Thirteenth Affirmative Defense

(Reliance upon Defenses of Other Parties)

HCD intends to rely, if appropriate, upon any other applicable defenses asserted by any presently unnamed or named respondent, real party in interest or defendant, in addition to its defenses asserted in this answer.

Fourteenth Affirmative Defense

(Additional Defenses)

HCD intends to rely upon other applicable defenses as may subsequently become apparent, and it hereby reserves its right to assert such defenses in the future.

WHEREFORE, HCD prays for judgment as follows:

1. That the Court deny petitioners any relief whatsoever;
2. That the Court award HCD their costs of suit incurred in this action;
3. That the Court award such other relief as the Court deems just and proper.

Dated: March 19, 2021

Respectfully Submitted,

MATTHEW RODRIQUEZ
Acting Attorney General of California
CHRISTINA BULL ARNDT
Supervising Deputy Attorney General



MITCHELL E. RISHE
Deputy Attorney General
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Answer to Petition-Final (002).docx

DECLARATION OF SERVICE BY E-MAIL and U.S. Mail

Case Name: **YIMBY v. HCD**
Case No.: **RG21087783**

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar, at which member's direction this service is made. I am 18 years of age or older and not a party to this matter. I am familiar with the business practice at the Office of the Attorney General for collection and processing of correspondence for mailing with the United States Postal Service. In accordance with that practice, correspondence placed in the internal mail collection system at the Office of the Attorney General is deposited with the United States Postal Service with postage thereon fully prepaid that same day in the ordinary course of business.

On March 19, 2021, I served the attached **ANSWER TO PETITION** by transmitting a true copy via electronic mail. In addition, I placed a true copy thereof enclosed in a sealed envelope, in the internal mail system of the Office of the Attorney General, addressed as follows:

Ryan J. Patterson
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Served via Email and First Class Mail

I declare under penalty of perjury under the laws of the State of California and the United States of America the foregoing is true and correct and that this declaration was executed on March 19, 2021, at Los Angeles, California.

Cynthia M. Lopez	/s/ Cynthia M. Lopez
Declarant	Signature