RYAN J. PATTERSON (SBN 277971)
EPHRAIM MARGOLIN (SBN 322799)
PATTERSON & O'NEILL, PC
235 Montgomery Street, Suite 950
San Francisco, CA 94104
Tel: (415) 907-9110
Fax: (415) 907-7704
ryan@pattersononeill.com
emargolin@pattersononeill.com

Attorneys for YES IN MY BACK YARD

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF STANISLAUS - UNLIMITED CIVIL JURISDICTION

KEYSTONE RANCH, LLC,

Petitioner,

vs.

CITY OF PATTERSON, a California municipal corporation; KEN IRWIN, CITY MANAGER OF THE CITY OF PATTERSON; BRYAN STICE, DIRECTOR OF PLANNING & COMMUNITY DEVELOPMENT FOR THE CITY OF PATTERSON; the MAYOR and members of the CITY COUNCIL OF THE CITY OF PATTERSON; and DOES 1 – 100,

Respondents.

Case No.: CV-24-003269

Environmental Law – CEQA (Pub. Res. Code § 21167.1)

APPLICATION FOR PERMISSION TO FILE AMICUS CURIAE BRIEF IN SUPPORT OF PETITIONER; AMICUS CURIAE BRIEF OF YES IN MY BACK YARD

Date: December 11, 2025
Time: 8:30 a.m.
Dept: 24

Date Action Filed: April 25, 2024

PATTERSON & O'NEILL, PC
235 MONTGOMERY STREET, STE. 950
SAN FRANCISCO, CALIFORNIA 94104

TABLE OF CONTENTS

APPLICATION FOR PERMISSION TO FILE AMICUS CURIAE BRIEF 4

AMICUS CURIAE BRIEF IN SUPPORT OF PETITIONER 6

I. INTRODUCTION 6

II. LEGAL ARGUMENT 10

A. Conditioning Project Approval Upon an Unnecessary $20 million Groundwater Recharge Facility is an Illegal Disapproval Under the Housing Accountability Act 10

B. Conditioning Project Approval Upon an Unnecessary $20 million Groundwater Recharge Facility is an Illegal Disapproval Under SB 330 11

C. CEQA Provides No Basis for Denial 13

D. This Disapproval is Bad-Faith Discrimination Against a Valid SB 330 Application 15

III. CONCLUSION 17

PATTERSON & O'NEILL, PC
235 MONTGOMERY STREET, STE. 950
SAN FRANCISCO, CALIFORNIA 94104

PATTERSON & O'NEILL, PC
235 MONTGOMERY STREET, STE. 950
SAN FRANCISCO, CALIFORNIA 94104

TABLE OF AUTHORITIES

CASES

Natural Resources Defense Council, Inc. v. City of Los Angeles (2023) 98 Cal.App.5th 1176 14

Save Tara v. City of West Hollywood (2008) 45 Cal. 4th 116 ..... 9, 13, 14

Yes In My Back Yard v. City of Culver City (2023) 96 Cal.App.5th 1103 11

STATUTES

Gov. Code § 65580 et seq. 6

Gov. Code § 65589.5 6

Gov. Code § 65589.5(a)(1)(B) 6

Gov. Code § 65589.5(a)(2)(A) 6

Gov. Code § 65589.5(a)(2)(C)-(D) 6

Gov. Code § 65589.5(a)(2)(K) 7

Gov. Code § 65589.5(a)(2)(L) 13

Gov. Code § 65589.5(d)(2) 10

Gov. Code § 65589.5(f)(6)(B)(i)(I) 11

Gov. Code § 65589.5(j)(1) 11

Gov. Code § 65589.5(j)(1)(A)–(B) 8, 10, 13

Gov. Code § 65589.5(k)(1)(ii) 15

Gov. Code § 65589.5(o)(1) 9, 12

Gov. Code § 66300(b)(1)(A)–(B) 9

Gov. Code § 66300(b)(1)(B) 12

Pub. Res. Code § 21081(a)(1) 14

OTHER AUTHORITIES

Cal. Code Regs. Tit. 14, § 15002 13

Cal. Code Regs. Tit. 14, § 15162 ..... 9, 14

APPLICATION FOR PERMISSION TO FILE AMICUS CURIAE BRIEF

Yes In My Back Yard respectfully requests permission to file the attached amicus curiae brief in support of Petitioner Keystone Ranch, LLC. No party in the pending case, or any counsel for a party, authored or made a monetary contribution to the preparation of any part of the proposed amicus brief.

Yes In My Back Yard ("YIMBY") is a § 501(c)(3) nonprofit California corporation that is dedicated to increasing the accessibility and affordability of housing in California by enforcing state housing laws. YIMBY's affiliate, YIMBY Action, has members throughout the state of California, with membership that cuts across socioeconomic lines, including members with very low, low, moderate, middle, and higher incomes. YIMBY envisions an integrated society where every person has access to a safe, affordable home near jobs, services, and opportunity. To move California toward that goal, YIMBY regularly tracks local government's actions to ensure compliance with state housing laws that are designed to increase the supply of housing. YIMBY often brings lawsuits, and files amicus curiae briefs, in support of the production of more housing.

YIMBY seeks permission to file the accompanying brief in support of its mission. This case involves important issues regarding what conditions may be imposed on proposed housing projects, which is relevant to YIMBY's goal of providing adequate housing for all. The outcome of this action will significantly impact the development of housing within the City of Patterson for the rest of this decade and may have ramifications throughout the state.

YIMBY has expertise in the field of housing law, including the Housing Crisis Act of 2019 (Senate Bill 330), the Housing Accountability Act (Gov. Code, § 65589.5), and amendments via Assembly Bill 1893. YIMBY is also interested in this case because YIMBY is on the front lines of implementing AB 1893, SB 330, and much of California's recent housing reform legislation, which are at the heart of this case. This brief can assist this Court by explaining the statutory context and motivation for recent housing reforms and by clarifying how the Legislature's purpose cannot be served by allowing a denial of the Keystone Ranch project via the imposition of conditions that would render the project infeasible. YIMBY therefore respectfully requests the Court grant its application to file the proposed amicus curiae brief.

PATTERSON & O'NEILL, PC
235 MONTGOMERY STREET, STE. 950
SAN FRANCISCO, CALIFORNIA 94104

Respectfully submitted on January 5, 2026.



Ryan Patterson
Attorneys for Amicus Curiae,
YES IN MY BACK YARD

PATTERSON & O'NEILL, PC
235 MONTGOMERY STREET, STE. 950
SAN FRANCISCO, CALIFORNIA 94104

PATTERSON & O'NEILL, PC
235 MONTGOMERY STREET, STE. 950
SAN FRANCISCO, CALIFORNIA 94104

AMICUS CURIAE BRIEF IN SUPPORT OF PETITIONER

I. INTRODUCTION

This case presents a clear example of a city using bad faith and contradictory logic to block a housing project that it has already counted toward its state housing obligations. By conditioning approval of the 719-unit Keystone Ranch project ("Project") on the Petitioner's construction of a $20 million groundwater recharge facility, which would take five years to complete, the City of Patterson ("City") imposed a moratorium and effectively denied new housing. Those actions flout the Housing Accountability Act ("HAA") (Gov. Code § 65589.5), the Housing Crisis Act of 2019 (Senate Bill 330), and the Legislature's broader framework to ensure that local governments facilitate, rather than obstruct, urgently needed housing. Amicus Curiae YIMBY files this brief to highlight the profound statewide implications of allowing a city to evade its housing obligations by imposing conditions costing tens of millions of dollars that its own official documents conclusively demonstrate are unnecessary.

California is reeling from a housing "affordability crisis of historic proportions" which "stifl[es] economic opportunities for workers and businesses, worsen[s] poverty and homelessness, and undermin[es] the state's environmental and climate objectives." (Gov. Code § 65589.5(a)(2)(A).) The Legislature has found that the affordability crisis is caused by a massive shortfall of supply: California has about *two million* fewer housing units than its residents require. (Gov. Code §§ 65589.5(a)(2)(A), (a)(2)(C)-(D).) Fewer units of housing lead to more people competing to rent or buy them, causing prices to soar.

The Legislature has expressly identified the misuse of local discretion as crucial to California's housing crisis: "The excessive cost of the state's housing supply is partially caused by activities and policies of many local governments that limit the approval of housing, increase the cost of land for housing, and require that high fees and exactions be paid by producers of housing." (Gov. Code § 65589.5(a)(1)(B).) To confront this problem, the Legislature has enacted a comprehensive framework of laws, including a strengthened Housing Element Law, the HAA, and the Housing Crisis Act, to ensure that local governments facilitate the development of vitally needed housing. (Gov. Code § 65580 et seq.) The Legislature's express intent is to "curb[] the

capability of local governments to deny, reduce the density for, or render infeasible housing development projects." (Gov. Code § 65589.5(a)(2)(K).) As the Attorney General has observed, "[a]ltering the standards applicable to a project mid-stream" is "the exact pattern of behavior the Legislature sought to stop." (RJN, **Exh A**, p. 6.) The City's actions here exemplify the very behavior the Legislature condemned.

While the Legislature has worked to reduce local discretion, pressure from local advocates consistently pushes local agencies toward illegal and exclusionary land use schemes. In 2022, Woodside's Town Council tried to skirt statutory housing responsibilities imposed by a new law permitting duplexes by falsely declaring the entire town a mountain lion habitat, triggering reprisal from the state's Attorney General. (RJN, **Exh. B**.) Similarly, the County of Santa Cruz made statutorily enforceable commitments to state officials that it would rezone sites, only later to illegally renege on its responsibilities.[1] Burbank's City Council voted to ignore staff recommendations, state law, and the Department of Housing and Community Development's finding that it was legally required to approve a housing project.[2]

The City of Patterson is unfortunately following suit. Its officials have effectively blocked Keystone Ranch, a 719-unit project (506 single-family units and 213 multi-family units) which represents nearly one-fifth of the City's state-mandated Regional Housing Needs Allocation ("RHNA") obligation of 3,716 units. (AR 14539.) Indeed, the City's own February 2025 Draft Housing Element[3] explicitly relies on the Project to meet the vast majority of its housing obligations. (City of Patterson, *Revised Draft Housing Element*, August 14, 2025).) The Project is consistent with the City's General Plan and pre-approved Zacharias/Baldwin Ranch Master Plan. (AR 4-203, 3972-4475, 7245.)[4] Planning for this area has been ongoing since 2007 and the City has

[1] Nik Altenberg, *4 Housing Rezones in Live Oak, Corralitos Delayed by Santa Cruz County Supervisors*, Santa Cruz Local (Apr. 30, 2025), https://santacruzlocal.org/2025/04/30/4-housing-rezones-live-oak-corralitos-delayed/, (Last accessed Jan. 5, 2026).

[2] YIMBY Law, *When NIMBYs Go Low, We Go to Court*, (Oct. 25, 2022) https://www.yimbylawPickwick Gardens - Burbank, CA — YIMBY Law.org/burbank-pickwick-gardens, (Last accessed Jan. 5, 2026).

[3] The Department of Housing and Community Development has still not certified the City's Draft Housing Element, and the City remains out of substantial compliance with the Housing Element Law.

[4] The Administrative Record ("AR") was lodged with the Court on August 21, 2025.

PATTERSON & O'NEILL, PC
235 MONTGOMERY STREET, STE. 950
SAN FRANCISCO, CALIFORNIA 94104

approved an Environmental Impact Report for the area, yet the City continues to add unnecessary delays to the Project, rendering it unbuildable until 2030. This misuse of process underscores the need for the predictability and celerity that state housing laws are intended to provide.

Despite being consistent with the City's General Plan and a unanimous recommendation for approval from the City's own Planning Commission and professional staff in February 2025, the City Council denied the Project on April 1, 2025. (AR 7578-7579, 7771-7775.) The stated reason was Petitioner's refusal to fund a new, estimated $20 million groundwater recharge facility, the Perc Pond facility, a condition which would render the Project economically infeasible and which would take an estimated five years to complete. (RJN, **Exh. C**; AR 15189.) The City's stated justification that it did not have sufficient water for the Project, hence the need for the groundwater recharge facility, was merely a pretext. The City's own November 2024 Draft Housing Element, Master Plan EIR, and Urban Water Management Plan consistently affirmed that the City's water supplies are sufficient and that the groundwater recharge facility is unnecessary. (AR 115, 3477, 3916, 14613-14614.) The real reason for the denial was that the City was upset that Petitioner submitted an SB 330 application in the first place, which allows a developer to "freeze" the applicable fees and development standards that apply to a project upon submittal of a preliminary application. (AR 12676-715.)

The City's imposition of the condition to build the groundwater recharge facility and subsequent denial of the Project violated the HAA, SB 330, and the California Environmental Quality Act. The City's denial violated the HAA provision that a city is prohibited from imposing conditions on a compliant housing project that effectively deny a project unless it makes written findings that the project would cause a "specific, adverse impact" on public health or safety, meaning a "significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards" in effect when the application was complete. (Gov. § 65589.5(j)(1)(A)–(B).) The City made no written findings that the Project would cause a specific, adverse impact, and, therefore, violated the HAA by imposing the condition to construct the water recharge facility.

PATTERSON & O'NEILL, PC
235 MONTGOMERY STREET, STE. 950
SAN FRANCISCO, CALIFORNIA 94104

The City's imposition of the condition to build the groundwater recharge facility and subsequent denial also violated SB 330's vesting protections and its ban on downzoning and housing moratoria. The City's denial violated SB 330's vesting protections, which provide that a project is subject only to the ordinances and standards in effect at the time a preliminary application is submitted. (Gov. Code § 65589.5(o)(1).) Since the condition to construct a water recharge facility was not in effect at the time Petitioner submitted the preliminary application, it cannot be applied against the Project. Further, the City's denial violated SB 330's ban on "reduc[ing] the intensity of land use" vis-a-vis 2018 levels or "imposing a moratorium or similar restriction or limitation on housing development." (Gov. Code § 66300(b)(1)(A)–(B).)

The City's denial also violated the California Environmental Quality Act ("CEQA"), which requires cities to study a project before imposing mitigation measures, such as the groundwater recharge facility. The City did study the Project as part of the Zacharias/Baldwin Ranch Master Plan Master Plan and concluded that no recharge facility was necessary. The City changed its tune after it entered into a settlement agreement regarding its groundwater pumping practices with a third-party. A change in circumstances can trigger the need for new mitigation measures, but a city must conduct further CEQA review rather than predetermining the outcome of that review. (Cal. Code Regs. Tit. 14, § 15162.) The City's imposition of the groundwater recharge facility as a mitigation measure, without determining such mitigation measures are necessary, violated CEQA by putting the cart before the horse. (*Save Tara v. City of West Hollywood* (2008) 45 Cal. 4th 116, 138.)

California laws are clear in their legislative intent and their function. It is clear that the City has been in consistent, deliberate violation of those laws, for illegitimate reasons. If the City's imposition of the condition to construct a groundwater recharge facility and subsequent denial of this Project is upheld, it would create a dangerous precedent, allowing any municipality to nullify state housing laws by imposing massive, unjustified conditions after the fact, thereby exacerbating California's housing crisis and undermining the rule of law. The Court should send a message by finding that the City acted in bad faith in denying the Project, and impose the appropriate penalties to deter the City and other local agencies from similarly denying projects based on flimsy pretextual concerns.

PATTERSON & O'NEILL, PC
235 MONTGOMERY STREET, STE. 950
SAN FRANCISCO, CALIFORNIA 94104

II. LEGAL ARGUMENT

A. Conditioning Project Approval Upon an Unnecessary $20 million Groundwater Recharge Facility is an Illegal Disapproval Under the Housing Accountability Act

The City made no written findings before imposing the condition to construct a $20 million groundwater recharge facility on Petitioner, which violated the HAA provision that a city is prohibited from imposing conditions on a compliant housing project that would constitute a disapproval unless it makes written findings that the project would cause a "specific, adverse impact" on public health or safety. (Gov. Code § 65589.5(j)(1)(A).) A "specific, adverse impact" is defined as a "significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete." (Gov. § 65589.5(j)(1)(A)–(B).)

The City has not adopted objective standards, leaving a threat to public safety as the only legitimate reason the City could assert to deny the Project. (AR 14910-14911, 14955.) To take advantage of this possibility, the City Council decided to fabricate a threat about the Project's perceived lack of water infrastructure to the public health or safety, which it has not, and cannot, justify. The City was required to justify the sudden post-hoc need for this functional denial via a preponderance of written evidence. (Gov. Code § 65589.5(j)(1).) Not only did the City present no such evidence, the only evidence that does exist about the need for a groundwater recharge facility conclusively supports the finding that one is not necessary. That evidence was not created by the Petitioner, but the City itself. The City's own official documents consistently stated that water supplies for the Project area are sufficient and that the Perc Pond facility was not a prerequisite for development. (AR 115, 3477, 3916, 14613-14.) When the Planning Commission, composed of non-political professionals experienced in the details of land use, reviewed the submission, they returned with a unanimous recommendation for approval. (AR 404-41.)

California's Department of Housing and Community Development ("HCD") has already called these actions into question, informing City officials that:

> [T]he City did not perform the required evaluation pursuant [] HAA findings before deciding to deny the Project. Doing so would have required the City to

PATTERSON & O'NEILL, PC
235 MONTGOMERY STREET, STE. 950
SAN FRANCISCO, CALIFORNIA 94104

> formally identify the presence of a specific adverse impact to health or safety associated with approval of the Project and evaluate whether there are any feasible mitigations to remedy the impact. Without making these written findings, denial of the project is inconsistent with the City's responsibilities under the HAA. (RJN, **Exh. D**, at p. 2.)

HCD specifically noted that "the [City's] draft [housing] element does not identify the need for a [groundwater recharge facility] condition as prohibitive and burdensome as what was proposed for Keystone Ranch," citing a conflict between the City's representations to HCD and to Petitioner. (*Id*. at 3.)

As HCD also pointed out, imposing a condition requiring Petitioner to fully fund a $20 million groundwater recharge facility constitutes a functional denial of the Project, in direct violation of the HAA. The HAA prohibits a local agency from disapproving, or conditioning approval in a manner that renders infeasible, a housing development project that complies with applicable, objective general plan, zoning, and subdivision standards and criteria in effect at the time the application was deemed complete. (Gov. Code § 65589.5(j)(1).)

The Project complies with all applicable, objective standards, according to the staff report prepared for the City Council. (AR 14910-14911, 14955.) Nonetheless, the City imposed approximately 159 conditions and roughly $40 million in fees, including the full cost of the $20 million Perc Pond facility, on the Project. (AR 15439.) The collective weight of these conditions, particularly the exorbitant and unjustified groundwater recharge facility, renders the Project economically infeasible, which the HAA treats as a denial. (Gov. Code § 65589.5(f)(6)(B)(i)(I).)

The HAA demands a level of reasoning and certainty that City officials did not meet. Their extortionate conditions—made without any required written findings—cannot be justified as necessary to protect the public safety, and cannot go without reprimand by this Court.

B. Conditioning Project Approval Upon an Unnecessary $20 million Groundwater Recharge Facility is an Illegal Disapproval Under SB 330

The Housing Crisis Act (SB 330), which is part of the HAA, requires predictable, transparent land use proceedings. SB 330 "is among the measures that the California Legislature has adopted to address the state's housing shortage." (*Yes In My Back Yard v. City of Culver City* (2023) 96 Cal.App.5th 1103, 1109.) Projects taking as much time and funding as housing can only be

PATTERSON & O'NEILL, PC
235 MONTGOMERY STREET, STE. 950
SAN FRANCISCO, CALIFORNIA 94104

undertaken if there is a reasonable understanding of what rules will apply to them. In order to address this problem and streamline housing development, SB 330 freezes any rules, regulations, and policies applicable to a project at the time the developer submits a preliminary application. (Gov. Code § 65589.5(o)(1).) Petitioner took advantage of this provision of SB 330 by submitting a preliminary application for the Project in 2023. The City then attempted to apply new standards, such as a new traffic impact fee adopted in October 2024, that were not in effect when Petitioner's SB 330 applications were deemed complete, which is illegal. (AR 260-340.) These conditions violate SB 330, but taken together are far less of a burden than foisting a $20 million expense on Petitioner for a brand-new water recharge facility that, according to official City documents, does not need to exist and was not a standard that was in effect when Petitioner submitted its preliminary application.

Beyond the need for consistent development criteria, SB 330 explicitly prohibits a city from enacting or imposing any "development policy, standard, or condition" that would have the effect of imposing a "moratorium or similar restriction or limitation on housing development. (Gov. Code § 66300(b)(1)(B).) By effectively prohibiting new housing until the groundwater recharge facility, estimated to cost $20 million and take five years to complete, is constructed, the City Council imposed a de facto five-year moratorium. HCD's letter to the City also noted that conditioning approval of the Project on the construction of a groundwater recharge facility constitutes a restriction on development which could violate SB 330. (RJN, **Exh. D**.)

The City's five-year moratorium on new housing on the site undermines its simultaneous reliance on this very Project in its Draft Housing Element to meet its state-mandated housing goals. Moreover, in August of 2025, Patterson's City Council approved a subdivision map for the development of 162 homes as part of the larger Villages of Patterson Master Plan, without requiring additional CEQA review or the completion of a recharge basin. (RJN, **Exh. E**.) The City cannot have it both ways: either the moratorium is illegal and unnecessary, or the City cannot meet its RHNA because of the water conditions.

As mentioned above, SB 330 is part of the HAA, and the City's actions contravene state policy that the HAA "be interpreted and implemented in a manner to afford the fullest possible

PATTERSON & O'NEILL, PC
235 MONTGOMERY STREET, STE. 950
SAN FRANCISCO, CALIFORNIA 94104

weight to the interest of, and the approval and provision of, housing." (Gov. Code § 65589.5(a)(2)(L).) Denying approval of a housing project that complies with all required standards based on a suddenly invented infrastructure need, which is directly contradicted by the City's own official and contemporaneous documents, violated both the letter and the spirit of California's housing laws. The City established that new groundwater recharge facilities were not necessary for new housing development, reiterated this to HCD, but then turned around and informed Petitioner that the City cannot allow new housing without said facilities. This denial is illegal under SB 330 because the condition to construct a groundwater recharge facility was not in effect when Petitioner submitted its SB 330 preliminary application and froze the development standards that could be applied to the Project.

C. CEQA Provides No Basis for Denial

The City's original basis for denial rests on circular, contradictory reasoning that is not supported by the City's documents or California law. The HAA requires specific findings to justify denial. (Gov. Code § 65589.5(j)(1)(A)–(B).) As explained above, the City's denial was accompanied by none of those findings; instead the City based its denial on the Project's purported non-compliance with the California Environmental Quality Act ("CEQA") that even a cursory review of the law will show is a misreading. The two stated reasons for the City Council's April 2025 vote to deny the Project were that the Project allegedly required additional CEQA review due to the City's 2024 Groundwater Sustainability Plan ("GSP") and that Petitioner was "not willing to agree to mitigation measures that would reduce significant effect arising from the Updated GSP[.]" (RJN, **Exh. C**.)

The City is prohibited from committing itself or a developer to any course of action until completing environmental review and fully evaluating the actual environmental effects of a given project. (*Save Tara*, 45 Cal. 4th at 138.) The purpose of CEQA review is to inform governmental decisionmakers and the public about the potential environmental effects of proposed projects, and ways that environmental harm can be avoided or mitigated. (Cal. Code Regs. Tit. 14, § 15002.) Mitigation measures can only be imposed, however, when an agency has completed the study of the environmental effects of a proposed project. The Environmental Impact Report ("EIR") that the

PATTERSON & O'NEILL, PC
235 MONTGOMERY STREET, STE. 950
SAN FRANCISCO, CALIFORNIA 94104

City prepared for the Zacharias/Baldwin Ranch Master Plan area, where the Project is based, does not require the construction of a groundwater recharge facility as a mitigation measure for housing development. (AR 14613-14.) Faced with this dilemma, the City Council's denial of the Project called for more environmental review, but predetermined its outcome by demanding the mitigation measure—construction of a water recharge facility—before it conducted the relevant CEQA review.

Changed circumstances can trigger the need for new mitigation measures, but a city cannot require mitigation measures that have not been identified by any CEQA document. (Cal. Code Regs. Tit. 14, § 15162.) CEQA expressly forbids a lead agency from approving or carrying out a project unless "[c]hanges or alterations have been required in, or incorporated into, the project which mitigate or avoid" any significant effects on the environment identified in the EIR. (Pub. Res. Code § 21081(a)(1).) The Petitioner's brief, however, adequately explains why the 2024 GSP does *not* qualify as a changed circumstance requiring additional environmental review of the Project.

Even if the 2024 GSP constituted a changed circumstances triggering the need for additional CEQA review of the Project, the appropriate mechanism would be to order that review, not denial of the underlying project. (*Save Tara,* 45 Cal. 4th at 138.) In the months following this denial, the City has not initiated any formal process to create a supplemental EIR for the Project as it called for in its denial. If the City has insufficient water to support new development, it has yet to establish that fact or begin any process that would allow the City to require mitigation measures for new projects. While the City agreed to change its groundwater pumping practices in its settlement agreement with irrigation districts, merely stating that this is a mitigation measure does not make it one for CEQA purposes. (AR 15438-39.) Describing something as a mitigation measure, in a settlement agreement to which Petitioner was not a party, does not make it one. The authority cited to by the City's response brief does mention that certain settlements may serve as a source for mitigation measures, but does not analyze their validity to apply to future projects. (*Natural Resources Defense Council, Inc. v. City of Los Angeles* (2023) 98 Cal.App.5th 1176, in which the remedy via settlement was, in part, conducting a new EIR.) As yet, there is no EIR which identifies a water shortage as a factor which requires mitigation.

PATTERSON & O'NEILL, PC
235 MONTGOMERY STREET, STE. 950
SAN FRANCISCO, CALIFORNIA 94104

CEQA did not allow for a denial of the Project at the City Council's April 1, 2025 hearing. If changed circumstances required a new EIR, the City could have ordered additional environmental review and imposed appropriate mitigation measures. Instead, the City concluded that an extortionate mitigation measure was necessary at the same time it ordered said review. The City could not deny the Project based on the Petitioner's refusal to comply with mitigation measures, as no applicable environmental reports required new groundwater infrastructure as a mitigation measure. Vaguely citing changed circumstances does not permit a denial of the Project under CEQA. The only appropriate conclusion is that the City's denial was pretextual and illegal. It cannot be allowed to stand.

D. This Disapproval is Bad-Faith Discrimination Against a Valid SB 330 Application

The City's conduct throughout the application process evinces a pattern of bad faith and harassment aimed at punishing Petitioner for invoking their rights under state law, which constitutes an independent violation of the HAA. The Legislature, recognizing that procedural gamesmanship can be as effective as outright denial in blocking housing, has specifically proscribed such conduct.

The SB 330 process is designed to provide predictability and limit the discretion of local officials that can be used to inhibit new housing. The law's protections are rendered meaningless if a city can simply harass an applicant into submission. AB 1893's recent amendments to the HAA, underscores the Legislature's intent to penalize cities which use bad faith arguments about process requirements to stop projects they oppose. (Gov. Code § 65589.5(k)(1)(ii).) The HAA defines "bad faith" to include "an action or inaction that is frivolous, pretextual, intended to cause unnecessary delay, or entirely without merit." (Gov. Code § 65589.5(1).) As courts have ruled, this definition is broadly applicable to the entire section: "By referring to 'section,' this definition is expressly applicable to bad faith determinations beyond those cited in subdivision (*l*). (See Gov. Code, § 10.)" (RJN, **Exh. F**.)

As previously discussed, the City's actions are wholly without merit, and based on an explicitly expressed motive to stop the Project. The City's conditions of approval are based on infrastructure needs that the City's own official documents, drafted both before and after the preliminary application was submitted, show are not necessary. (AR 115, 3477, 3916, 14613-

PATTERSON & O'NEILL, PC
235 MONTGOMERY STREET, STE. 950
SAN FRANCISCO, CALIFORNIA 94104

14614.) The City's discriminatory intent has been borne out by illegal delay at every possible step of the process. The City wrongly claimed SB 330 did not apply to the Project, and issued multiple invalid "incompleteness" determinations, forcing Petitioner to file a lawsuit merely to have its application processed. (AR 12720-24, 12931-32, 14245-47, 14792-98.) This conduct alone constitutes harassment, and forced the Petitioner to incur expensive delays and legal costs to even have its application considered by the City. If property owners are forced to assert their rights via lawsuits at multiple stages of development, as Keystone Ranch has, California will never be able to ameliorate its housing shortage.

Evidence of the City's discriminatory motive is stark and consistent. Two months after denying the Project over purported water concerns, the City approved a massive distribution center and 162-unit residential project without imposing similar water conditions. (RJN, **Exhs. E and G**.) This selective enforcement exposes the condition to construct a groundwater recharge facility as a pretextual weapon aimed solely at stopping the Project. More examples abound. The record shows the Deputy City Attorney boasted that a threat to cancel an upcoming annexation vote for the Master Plan Area was "incredibly effective in bringing everybody to the table," producing "vigorous conversations" and a "positive solution" with developers. (AR 7443.) That statement confirms the threat was meant to harass and delay Petitioner, not address infrastructure needs. The Mayor also accused Petitioner of seeking "preferential treatment" by using the SB 330 process. (AR 7764.) The City even attempted to force Petitioner into a side agreement to fund improvements for a separate, unrelated neighborhood as a condition of approval. (AR 6286-87.) The City's condition that Petitioner construct a $20 million groundwater recharge facility, likewise, did not stem from infrastructure needs, but from a March 2025 settlement of a 2022 CEQA lawsuit between the City and irrigation districts. This lawsuit was approved without Petitioner's participation, although Petitioner was the real party in interest, and the City committed to force Petitioner to finance an off-site groundwater recharge facility and delay development for years. (AR 15437–49.)

This pattern of conduct—refusing to process a valid application, applying blatantly contradictory standards, and employing extortionate negotiation tactics—goes beyond mere error. It constitutes the very kind of bad faith discrimination that SB 330, the HAA, and AB 1893 were

PATTERSON & O'NEILL, PC
235 MONTGOMERY STREET, STE. 950
SAN FRANCISCO, CALIFORNIA 94104

enacted to prevent. To allow such tactics to stand would eviscerate the core procedural protections that are essential to achieving California's housing goals.

III. CONCLUSION

What must not be lost amongst the nearly 20 years of procedure and thousands of pages of paperwork in this case is how consistently and blatantly the City has violated the law to kill this Project and fill its own coffers. City officials have impeded and functionally denied the Project from moving forward. In doing so they ignored multiple state laws, invented contradictory and constantly changing criteria to deny the Project, and disregarded the findings of their own staff.

The rule of law depends on local governments following the limits that the Legislature has clearly imposed, not inventing pretextual barriers to block housing. The City's denial of the Project through the imposition of an infeasible condition and bad faith tactics violated the HAA, the Housing Crisis Act/SB 330, CEQA, and the very framework California has established to remedy its severe housing shortage. If allowed to stand, this conduct would provide a blueprint for cities to evade state housing obligations by manufacturing unjustified conditions after the fact, undermining the predictability that developers require and jeopardizing the state's efforts to ensure adequate housing. The Court should enforce these protections as written, reject the City's unlawful conduct, and reaffirm that compliance with state housing law cannot be negotiated away.

Respectfully submitted on January 5, 2026.

PATTERSON & O'NEILL, PC

Ryan Patterson
Attorneys for Amicus Curiae,
YES IN MY BACK YARD

PATTERSON & O'NEILL, PC
235 MONTGOMERY STREET, STE. 950
SAN FRANCISCO, CALIFORNIA 94104