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SUPERIOR COURT – STATE OF CALIFORNIA

COUNTY OF LOS ANGELES – UNLIMITED CIVIL JURISDICTION

YES IN MY BACK YARD, a California nonprofit corporation; SONJA TRAUSS; and JANET JHA, Petitioners and Plaintiffs, vs. CITY OF LOS ANGELES; CITY COUNCIL OF THE CITY OF LOS ANGELES; and DOES 1-25, Respondents and Defendants.	Case Number: **PETITION FOR WRIT OF MANDATE, PROHIBITION, OR OTHER EXTRAORDINARY RELIEF; COMPLAINT FOR DECLARATORY RELIEF** [CCP § 1094.5; CCP § 1085; Gov. Code § 65589.5; Gov. Code § 65941.1; Gov. Code § 65943; CCP § 1060]

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Petitioners and Plaintiffs Yes In My Back Yard, Sonja Trauss, and Janet Jha (collectively, "Petitioners") by and through their attorneys, Zacks, Freedman & Patterson, PC and Jeffer Mangels Butler & Mitchell LLP, file this petition for writ of mandate and complaint for declaratory relief against respondents and defendants CITY OF LOS ANGELES, THE CITY COUNCIL OF THE CITY OF LOS ANGELES, and DOES 1-25 (collectively, "Respondents"), to compel Respondents to comply with their duties under the state Housing Accountability Act (Gov. Code § 65589.5), state Housing Crisis Act (Gov. Code § 65941.1), and state Permit Streamlining Act (Gov. Code § 65943), as further set forth below. Petitioners allege as follows:

PARTIES TO THE ACTION

1. Petitioner and Plaintiff Yes In My Back Yard ("YIMBY") is a § 501(c)(3) nonprofit corporation; YIMBY is the litigation affiliate of YIMBY Action, a § 501(c)(4) nonprofit corporation, whose membership cuts across socioeconomic lines, including members with very low, low, moderate, middle, and higher incomes ("YIMBY Members"). YIMBY's mission is to increase the accessibility and affordability of housing in California by enforcing state housing laws and by advocating for increased access to housing for households of all income levels, including for YIMBY Members who reside in, or wish to reside in, the City of Los Angeles. YIMBY has a direct and substantial interest in ensuring that Respondents' actions are in conformity with the requirements of law, that those requirements are properly executed, and that Respondents' duties are enforced. YIMBY Members, as well as the general public, will be adversely affected by the acts described herein and are aggrieved by the acts, decisions, and omissions of Respondents as alleged in this Petition and Complaint. YIMBY brings this Petition and Complaint on its own behalf and on behalf of others affected by Respondents' failure to comply with state law as alleged herein.

2. Petitioner and Plaintiff Sonja Trauss ("Trauss") is a natural person and a resident of the State of California, and she is the founder and director of YIMBY and a member of YIMBY Action. Trauss has a substantial interest in ensuring that Respondents' actions are in conformity with the requirements of law, that those requirements are properly executed, and that the public duties of Respondents are enforced.

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3. Petitioner and Plaintiff Janet Jha ("Jha") is a natural person and a resident of the State of California. Jha is the owner of the real property commonly known as, and situated at, 5353 Del Moreno Drive, Los Angeles, California (the "Project Site").

4. Respondent and Defendant City of Los Angeles (the "City") is an incorporated municipality of the State of California.

5. Respondent and Defendant City Council of the City of Los Angeles (the "City Council") is the City's policy making, legislative, and quasi-judicial municipal body.

6. Petitioners are not aware of the identities of respondents/defendants DOES 1-25, who are responsible for the acts and omissions alleged herein and that caused damage to Petitioners; therefore, Petitioners will amend this Petition and Complaint when the true identities of DOES 1-25 are ascertained.

7. Petitioners are informed and believe that at all times mentioned in this Petition and Complaint, all respondents/defendants were the agents or employees of their co-respondent/defendant, and in doing the things alleged in this Petition and Complaint, were acting within the course and scope of that agency and employment.

JURISDICTION AND VENUE

8. Los Angeles County Superior Court has initial jurisdiction of the matters alleged herein pursuant to Code of Civil Procedure §§ 1094.5 and 1085, which authorizes the Court to issue a writ of mandate.

9. Venue is proper in this Court because the entire controversy occurred in Los Angeles County, and Respondents are situated in Los Angeles County. (Code Civ. Proc. §§ 394 & 395.)

10. This action is timely because it is brought within 90 days of a final action on a housing development project. (Gov. Code § 65589.5(m)).

11. Petitioners performed any and all conditions precedent to filing this action to the extent required by law, and exhausted all available administrative remedies.

STATEMENT OF FACTS

12. This case concerns Respondents' policies and practices which it institutes to

avoid compliance with the most basic housing laws adopted by the California legislature to address the state's ongoing housing crisis. As illustrated in this case, Respondents' conduct includes, but is not limited to, (i) affirmatively subverting the Permit Streamlining Act and the Housing Crisis Act through arbitrary and bad-faith application procedures and policies, (ii) ignoring state housing laws that expressly permit multi-family housing on properties so long as the densities proposed are consistent with the densities in the City's general plan, regardless of a site's individual zoning, and (iii) denying applicants their appeal rights guaranteed by state law. These illegal policies and practices are applied by Respondents to avoid their obligations under state law, and to subvert the ability of applicants to benefit from the legal protections established for housing development projects under state law.

13. At issue in this case is a housing development project application submitted to Respondents by Jha, the owner of 5353 Del Moreno Drive, which is located within the Canoga Park - Winnetka - Woodland Hills - West Hills Community Plan ("Community Plan") area. In the Community Plan, which is part of the Land Use Element of the City's General Plan, Jha's parcel is designated "Limited Commercial." This designation allows for three different types of commercial zones: CR, CR1.5, and CR1. These zones also allow for multi-family residential uses with densities ranging from one unit per 800 square feet to one unit per 400 square feet of lot area. Despite the General Plan's Limited Commercial designation, however, the parcel is zoned RA-1, which only allows for one single-family dwelling per lot. The property is located adjacent to Ventura Boulevard, the largest commercial corridor in the City's San Fernando Valley community.

14. Jha sought to develop the Project Site with a multi-family development, which included designated affordable units. The proposed housing development project utilizes the density permitted by the Limited Commercial land use designation, in addition to a Density Bonus permitted by state law, to include one commercial unit and 67 residential dwelling units, with seven units designated for very-low-income households (the "Project").

15. On May 19, 2020, Jha's representative, Akhilish Jha, submitted a Preliminary Application for the Project pursuant to the procedures set forth in Gov. Code §65941.1, also

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known as the Housing Crisis Act or SB 330. Jha's application included all the information specifically listed in Gov. Code §65941.1 that is necessary for submittal of a complete Preliminary Application, such as the specific location; the existing uses on the project site; a site plan; the proposed land uses by number of units and square feet of residential development; and the proposed number of parking spaces.

16. On May 29, 2020, Jha paid a fee of $1,060.26 in connection with the filing of the Preliminary Application.

17. Ten days later, Respondents informed Jha that the Preliminary Application included "inaccurate statements on the application regarding the proposed entitlement path." Specifically, Respondents stated that the Project was noncompliant with the project site's RA-1 zoning, is not eligible for a density bonus because only one unit is allowed on the Project Site per the RA-1 zoning, and the Project would require a rezoning of the Project Site. Respondents also directed Jha to the Housing Services Unit to "verify the appropriate entitlement path" and to secure a signed Affordable Housing Referral Form.

18. Gov. Code § 65941.1, which establishes the required contents of a Preliminary Application, does not require an applicant to include a proposed entitlement path. Respondents' own SB 330 Preliminary Application form similarly does not require an applicant to identify a proposed entitlement path. SB 330 does not require a proposal to be compliant with any standards or criteria, nor does SB 330 require an agency to make a compliance determination.

19. Pursuant to the application procedures set forth in SB 330, an applicant must first submit a Preliminary Application consistent with Government Code § 65941.1, and pay the associated processing fees. No affirmative determination by local government regarding the completeness of a preliminary application is required. Within 180 days of the Preliminary Application submittal, the applicant must submit the full project application, containing all of the information required by the local agency's application checklist pursuant to Government Code §§ 65940, 65941, and 65941.1. The local agency then has 30 days to determine application completeness, and provide in writing both the determination of whether the application is complete and, when applicable, a list of items that were not complete. If written notice is not

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provided within 30 days, the application is deemed complete pursuant to Government Code § 65943.

20. If the local agency finds the application to be incomplete, an applicant has 90 days to correct any deficiencies, and upon resubmittal the local agency once again has 30 days to evaluate the corrected submittal. If the application is again determined by the local agency to be incomplete in a timely manner, the applicant is provided a right to appeal.

21. From the date the project application is completed or deemed complete, the local agency has 30 days to explain the reasons why the local agency considers the housing development to be inconsistent, non-compliant, or non-conformant with applicable provisions. If no explanation is provided, the project is deemed consistent, compliant, and in conformity with applicable plans, programs, policies, ordinances, standards, requirements, and other similar provisions pursuant to Government Code § 65589.5(j)(2).

22. On August 17, 2020, Jha submitted a completed Affordable Housing Referral Form to Respondents' Housing Services Unit as directed. Respondents' Housing Services Unit refused to process an invoice or return a signed Affordable Housing Referral Form because it concluded that the proposed Project was noncompliant with the Project Site's RA-1 Zoning. Respondents' staff also refused to sign the Geographic Project Planning Referral Form for the same reason.

23. On August 18, 2020, pursuant to the procedures set forth in SB 330, Jha submitted a complete development application to Respondents' Department City Planning. Pursuant to SB 330, the City is provided 30 days to determine the completeness of the Project application; otherwise the application is deemed complete under state law, even if it is in fact deficient. Included in the Project application were the two unsigned "referral forms," which were included because Respondents' application checklist states that the forms are required as part of the initial application.

24. On September 18, 2020, 31 days after Jha submitted the complete Project application, Respondents issued Jha a completed "CP-7782.1 DCP Application Checklist and Deemed Complete" form. The form contains an exhaustive list of documents and materials

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required by the City for a complete application, and the last page of the form includes a checked box, which states that "[t]here are portions of your application that have been determined to be 'incomplete' for filing purposes."

25. On January 21, 2021, Jha submitted all the documents identified on the form CP-7782.1. On February 26, 2021 – 36 days later – Respondents notified Jha that the application was still incomplete. The reason Respondents gave for finding the application incomplete were (1) the Project as submitted was inconsistent with the Project Site's RA-1 zoning; and (2) the Project application lacked Department of City Planning staff signatures on the Affordable Housing and Geographic Project Planning Referral forms.

26. On February 26, 2021, Jha requested an appeal of Respondents' completeness determination pursuant to the PSA appeal process outlined in Gov. Code § 65943. Rather than provide an appeal, Respondents claimed that Jha's failure to provide the signed forms, which Respondents themselves refused to sign, caused the application to be "unacceptable." Respondents further claimed that an "unacceptable" application is not actually an application at all, and therefore is not subject to the PSA's appeal provisions.

27. Over the next several months, Jha made numerous attempts to move forward with the housing development application as proposed. Respondents repeatedly refused to take any action on the application due to the "missing" signed forms, which Respondents' own staff repeatedly refused to sign. Rather than take any action on the application at all, Respondents demanded that Jha reduce the density of the proposed Project to be compliant with the Project Site's RA-1 zoning (even though the project's proposed density is compliant with the Limited Commercial general plan designation) or seek a rezoning of the Project Site.

28. In June of 2021, Jha retained an attorney, who submitted a letter to Respondents' Department of City Planning demanding Jha be given an opportunity to appeal its determination that the application was incomplete. In response to this letter, Respondents consented and provided Jha an opportunity to appeal, even though Gov. Code § 65943 requires a final written determination on a PSA appeal within 60 days of the appeal request, and Jha had originally requested an appeal four months earlier. Respondents granted Jha the right to appeal their

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determination that the application was incomplete, but maintained that it had never actually received an application, a position that defies logic. Nevertheless, an appeal was filed by Jha, and was scheduled to be heard by the City Council.

29. On August 31, 2021, the Planning and Land Use Management Committee ("PLUM") of the City Council held a hearing on Jha's PSA appeal. Jha, Petitioners YIMBY and Trauss participated in the appeal, including providing written comments prior to the hearing and oral testimony during the hearing.

30. In its presentation to the PLUM Committee, Department of City Planning staff recommended denial of the appeal, because (1) Jha did not provide the signed referral forms, which Respondents themselves refused to sign, and (2) Jha's application was never "received" by Respondents because it was not complete, and therefore the 30-day PSA completeness determination requirement was not triggered. Staff further explained to the PLUM Committee that, even if a PSA completeness determination was required, Jha's application was not complete because the application did not include the signed forms that Respondents themselves had refused to sign.

31. PLUM also found that the HAA's 30-day compliance determination requirement was not triggered because Jha's application was not complete, even though the reason Respondents refused to deem the application complete was due to Respondents' erroneous compliance determination. Respondents unironically explained that because "the project as proposed does not comply with the objective standards of the RA zone . . . the proposed development does not trigger the requirement of a consistency determination pursuant to Government Code Section 65589.5(i)(2)." As a result, PLUM unanimously denied Jha's appeal.

32. On September 1, 2021, 379 days after Jha submitted an application for a proposed housing development project, the full City Council held a hearing and similarly denied Jha's PSA appeal. According to the City Council's findings, Jha's application does not and will not exist until Jha reduces the density of the proposed project or seeks a rezoning. Until Jha complies with Respondents' demand, Respondents believe that the requirements of the PSA and HAA are not applicable to them.

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33. The City's actions in this case, and in others, constitute a clear attempt to avoid the mandates of state law.

34. The state Permit Streamlining Act (PSA), codified at Gov. Code § 65920 et al., is intended to expedite decisions on development projects. The PSA requires public agencies to compile lists that specify the information that will be required from an applicant for a development project (Gov. Code § 65940); includes strict timelines for agencies to determine whether an application is complete (Gov. Code § 65943); and provides a process for an applicant to appeal a completeness determination wherein an agency must make a final determination on the appeal within 60 days (Gov. Code § 65943).

35. Respondents have a long history of refusing to accept permit applications for filing in order to circumvent the PSA's deadlines, a practice that courts have found "improper" and "not to be condoned." (*Pacific Palisades Bowl Mobile Estates, LLC v. City of Los Angeles* (2010) 187 Cal App. 4th 1461, 1473.)

36. The state Housing Crisis Act, commonly referred to as SB 330, added a Preliminary Application process to the PSA specifically for housing development projects. (Gov. Code §65941.1) The Preliminary Application process states that an applicant "shall be deemed to have submitted a Preliminary Application" upon providing the information specifically listed in Gov. Code § 65941.1. Once a complete Preliminary Application has been submitted, a project receives vested rights and may only be subjected to the ordinances, policies, and standards adopted and in effect at the time the Preliminary Application is submitted.

37. SB 330 explicitly states that no affirmative determination regarding completeness of the Preliminary Application by an agency is required. SB 330 does not include any provisions that require a Preliminary Application to be consistent with general plan, zoning, and subdivision standards and criteria. SB 330 does not allow an agency to refuse to accept a Preliminary Application that contains all required information based upon a determination of the project's noncompliance with applicable general plan, zoning, and subdivision standards and criteria, nor does SB 330 include any compliance determination process at all.

38. The state Housing Accountability Act (HAA), codified at Gov. Code § 65589.5,

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provides a process for a local agency to inform applicants whether it considers a housing development project to be not in compliance with applicable, objective general plan, zoning, and subdivision standards and criteria. For projects with 150 or fewer units, the HAA states that written compliance documentation shall be provided "[w]ithin 30 days of the date that the application for the housing development project is determined to be complete" pursuant to the PSA. (Gov't Code 65589.5(h)(6).)

39. The HAA limits the ability of local governments to disapprove housing development projects that comply with applicable, objective general plan, zoning, and subdivision standards and criteria or impose conditions that a project be developed at a lower density. The HAA defines "disapprove" as any instance in which an agency "[v]otes on a proposed housing development project application and the application is disapproved, including any required land use approvals or entitlements necessary for the issuance of a building permit." (Gov't Code 65589.5(j)(2).)

40. In enacting the HAA, the Legislature found and declared that California housing has become the most expensive in the nation and that the excessive cost of the state's housing is partially caused by policies of many local governments that limit the approval of housing. (Gov't Code 65589.5(a)(1).) The Legislature further declared that the HAA "should be interpreted and implemented in a manner to afford the fullest possible weight to the interest of, and the approval and provision of, housing." (*Id*.)

41. In 2018, the California Legislature enacted AB 3194 to amend and strengthen the HAA by prohibiting a local government from requiring a rezoning when a housing development project complies with objective general plan standards, but the zoning for the project site is inconsistent with the general plan. (Gov't Code 65589.5(j)(4).) AB 3149 was designed to discourage local governments from maintaining low density zoning in order to require project-by-project rezoning, even when a project complies with the densities allowed in the general plan, because "[s]uch actions are a way for locals to evade compliance with the HAA, on the grounds that projects are subsequently inconsistent with existing zoning standards." (Senate Floor Analysis, 8/18/2018, p. 4.) AB 3149 was specifically designed to

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close the zoning inconsistency loophole, which "according to a recent report by Berkeley Law School, of 152 housing projects processed in two of California's largest jurisdictions over the last three years, in fully 78 instances the jurisdiction required a rezoning or a variance–yet in only 6 instances did the project need a general plan amendment." (Assembly Committee on Local Government Analysis, 5/9/2018, p. 6.)

42. The Legislature's intent in AB 3194 was clearly to reiterate the primacy of the general plan by not requiring a rezoning in cases where zoning is inconsistent with the general plan, while also adding language to the HAA that zoning standards shall only be "applied to facilitate and accommodate development at the density allowed on the site by the general plan and proposed by the proposed housing development project." (Gov't Code 65589.5(j)(4).)

43. Moreover, as the Project included a Density Bonus under state law, it is subject to the provisions of Government Code § 65915(f), which permits a density increase over and above the "Maximum Allowable Residential Density." In circumstances where the *density* permitted under a site's zoning is inconsistent with the *density* permitted under the applicable General Plan, Government Code § 65915(o) expressly states that the Maximum Allowable Residential Density shall be calculated applying the density permitted in the general plan, and not the zoning.

44. Respondents have informed Jha of their opinion that the Project Site's RA-1 zoning - which completely prohibits multi-family housing and only allows one dwelling per lot - is consistent with the Project Site's Limited Commercial designation and associated density, which otherwise allows for multi-family residential uses with densities ranging up to one unit per 400 square feet. Based on this erroneous conclusion, Respondents informed Jha that she would be forced to seek a rezoning of the site or reduce the density of the proposed project, even though the Project is consistent with the Project Site's Limited Commercial general plan designation, and the HAA requires that zoning standards be applied to facilitate and accommodate development at the density allowed on the site by the general plan. Respondents also informed Jha that the project is not eligible for a Density Bonus because the site's zoning only allows one unit, even though the Maximum Allowable Residential Density of the Project Site's Limited

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Commercial general plan designation is one unit per 400 square feet. In fact, unless Jha complies with this demand, Respondents will refuse to accept that Jha has submitted an application for the project at all.

FIRST CAUSE OF ACTION
(Writ of Mandate - CCP § 1094.5 and/or § 1085; Gov. Code § 65920 – Against All Respondents)

45. Petitioners incorporate here by reference the allegations contained in Paragraphs 1 through 44 of this Petition and Complaint.

46. Petitioners, YIMBY Members, and the public each have beneficial interests that have been, and will further be, severely injured and adversely affected if Respondents' actions are not set aside and invalidated, and if Respondents' interpretation of the requirements of the PSA are allowed to be enforced against Petitioners, YIMBY Members, and others similarly situated. Petitioners' interests include ensuring that Respondents comply with state laws requiring that they expedite decisions on development projects, particularly housing development projects to address the housing needs of California residents; ensuring that Respondents' actions are in conformity with the requirements of state law; and having those requirements properly executed and their public duties enforced. Petitioners have a clear, present, and legal right to Respondents' performance of their legal duties as described herein. Respondents have failed to perform their duties.

47. As detailed above, the PSA requires public agencies to compile lists that specify the information that will be required from an applicant for a development project, and it includes strict timelines for agencies to determine whether an application is complete. The PSA's process is informational, not substantive. Respondents' refusal to accept an application based solely on purported noncompliance with substantive zoning standards and criteria, rather than incomplete information, is a clear effort by Respondents to avoid the PSA's state-mandated timing requirements. Moreover, Respondents erred and abused their discretion in finding that the Project application was not "deemed complete" pursuant to state law due to Respondents' failure to timely provide written notice to Jha that it was in-fact, incomplete.

48. The PSA also requires agencies to provide a process for an applicant to appeal a

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completeness determination whereby an agency must make a final determination on the appeal within 60 days. As a consequence of Respondents' refusal to even accept an application based on purported noncompliance with substantive zoning standards and criteria, Respondents refused an appeal right for more than five months based on a claim that an application did not exist (until Jha retained an attorney). Respondents' actions are a clear effort to avoid the requirements of the PSA and deny Petitioners, YIMBY Members, and others similarly situated their state-mandated appeal rights.

49. SB 330 added a Preliminary Application process to the PSA specifically for housing development projects, and it states that a Preliminary Application shall be deemed complete upon providing certain specific information. The Preliminary Application process is similarly informational, not substantive. Respondents' refusal to accept a Preliminary Application based solely on purported noncompliance with substantive zoning standards and criteria, rather than incomplete information, is a clear effort by Respondents to avoid providing Petitioners, YIMBY Members, and others similarly situated the protections of SB330's state mandated vesting rights.

50. Petitioners have no plain, speedy, and adequate remedy in the ordinary course of law to challenge the Respondents' actions, and a writ of mandate under Code of Civil Procedure § 1094.5 and/or § 1085 is the prescribed remedy for violations of this type. Petitioners have performed all conditions precedent to the issuance of a writ of mandate. Petitioners seek an immediate stay or other appropriate relief, including an injunction, declaration, and/or order, commanding Respondents to perform their legal duties under the PSA, including with respect to the Preliminary Application and development application for the proposed Project at 5353 Del Moreno Drive.

SECOND CAUSE OF ACTION
(Writ of Mandate - CCP § 1094.5 and/or § 1085; Gov. Code § 65589.5 – Against All Respondents)

51. Petitioners incorporate here by reference the allegations contained in Paragraphs 1 through 50 of this Petition and Complaint.

52. Petitioners, YIMBY Members, and the public each have beneficial interests that

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have been, and will further be, severely injured and adversely affected if Respondents' actions are not set aside and invalidated, and if Respondents' interpretation of the requirements of the HAA are allowed to be enforced against Petitioners, YIMBY Members, and others similarly situated. Petitioners' interests include ensuring that Respondents comply with state laws requiring that they approve housing development projects expeditiously and at the density allowed by the general plan without requiring a rezoning, in order to address the housing needs of California residents; ensuring that Respondents' actions are in conformity with the requirements of state law; and having those requirements properly executed and their public duties enforced. Petitioners have a clear, present, and legal right to Respondents' performance of their legal duties as described herein Respondents have failed to perform their duties.

53. As detailed above, the HAA provides a process for a local agency to inform applicants whether it considers a housing development project to be not in compliance with applicable, objective general plan, zoning, and subdivision standards and criteria. For projects with 150 or fewer units, the HAA states that written compliance documentation shall be provided "[w]ithin 30 days of the date that the application for the housing development project is determined to be complete" pursuant to the PSA. (Gov't Code 65589.5(j)(2).) An agency's failure to make a written compliance determination within the specified timeframe results in a project being deemed compliant. Respondents' refusal to accept an application based on purported noncompliance with substantive zoning standards and criteria, rather than incomplete information, is a clear effort by Respondents to also deny Petitioners, YIMBY Members, and others similarly situated their rights under the HAA's state-mandated compliance determination timing provisions.

54. The HAA limits the ability of local governments to disapprove housing development projects that comply with applicable, objective general plan, zoning, and subdivision standards and criteria, or impose conditions that a project be developed at a lower density. The HAA defines "disapprove" as any instance in which an agency "[v]otes on a proposed housing development project application and the application is disapproved, including any required land use approvals or entitlements necessary for the issuance of a building permit."

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For all intents and purposes, Respondents' action denying Jha's appeal and refusing to process the application unless and until the project density is reduced to be in compliance with the Project Site's RA-1 zoning (rather than the Limited Commercial general plan designation) constitutes a disapproval of the proposed housing development project application. Respondents' action violates the HAA because the density of the proposed Project is consistent with the density allowed in the general plan, and the HAA requires that zoning standards be "applied to facilitate and accommodate development at the density allowed on the site *by the general plan* and proposed by the proposed housing development project." Respondents' refusal to apply zoning standards in a manner that facilitates and accommodates the densities allowed by the general plan denies Petitioners, YIMBY Members, and others similarly situated their rights under the HAA.

55. Additionally, the HAA prohibits an agency from requiring a rezoning when a housing development project is consistent with objective general plan standards and criteria if the zoning for a site is inconsistent with the general plan. Here, the Project is consistent with the Project Site's Limited Commercial general plan standards, but the RA-1 single-family zoning is inconsistent with the general plan because the RA-1 zone only allows for one single-family residence while the Limited Commercial general plan designation allows for higher multi-family densities. Respondents' actions to refuse to process Jha's application without a rezoning is in violation of the HAA. Respondents have denied the HAA's rezoning protections to Petitioners, YIMBY Members, and others similarly situated.

56. Petitioners have no plain, speedy, and adequate remedy in the ordinary course of law to challenge the Respondents' actions, and a writ of mandate under Code of Civil Procedure § 1094.5 and/or § 1085 is the prescribed remedy for violations of this type. Petitioners have performed all conditions precedent to the issuance of a writ of mandate. Petitioners seek an immediate stay or other appropriate relief, including an injunction, declaration, and/or order, commanding Respondents to perform their legal duties and obligations under the HAA, including with respect to the proposed Project at 5353 Del Moreno Drive.

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THIRD CAUSE OF ACTION
(Declaratory Relief - Code Civ. Proc. § 1060 – Against All Respondents)

57. Petitioners incorporate here by reference the allegations contained in Paragraphs 1 through 56 of this Petition and Complaint.

58. An actual controversy has arisen and now exists between Petitioners and Respondents concerning their obligations and duties under California statutory law, including but not limited to Respondents' policies and practices which operate to avoid obligations established by state law, such as: (i) requiring "pre-application" referral forms *before* allowing an applicant submit an otherwise complete housing development project permit application; (ii) refusing to consider a housing development project application as being "submitted" for the purposes of the PSA until after Respondents have confirmed they have received a complete application; and, (iii) disregarding the appeal procedures and time limitations applicable to Preliminary Applications and associated housing development project applications under state law. As set forth herein, Petitioners contend that Respondents' actions are prohibited by the state Housing Accountability Act (Gov. Code § 65589.5), state Housing Crisis Act (Gov. Code § 65941.1), and state Permit Streamlining Act (Gov. Code § 65943). Petitioners further contend that Respondents' actions are intended to evade their legal duties and deny Petitioners, YIMBY Members, and others similarly situated their rights under these state laws. Petitioners are informed and believe, and on that basis allege, that Respondents contend in all respects to the contrary. A judicial determination and declaration as to the applicability of state law to Respondents' actions, and of the resulting legal obligations of Respondents, is therefore necessary and appropriate.

WHEREFORE, Petitioners demand judgment against Respondents for the following:

1. For writ of mandate or other appropriate relief, including an injunction, declaration, and/or order, commanding Respondents to review and process development applications pursuant to the state Permit Streamlining Act's provisions, including refraining from refusing to accept development applications and denying appeal rights based on

"incomplete" applications;

2. For writ of mandate or other appropriate relief, including an injunction, declaration, and/or order, commanding Respondents to review and process housing development project Preliminary Applications pursuant to the provisions of SB 330, including refraining from refusing to accept a Preliminary Application and denying vesting rights based on "incomplete" Preliminary Applications;

3. For writ of mandate or other appropriate relief, including an injunction, declaration, and/or order, commanding Respondents to comply with the Permit Streamlining Act and SB 330 with respect to the proposed Project at 5353 Del Moreno Drive including, but not limited to, an order that the Project's Preliminary Application and development application are deemed complete;

4. For writ of mandate or other appropriate relief, including an injunction, declaration, and/or order, commanding Respondents to review and process housing projects according to state Housing Accountability Act standards, including refraining from using an "incomplete" application determination to evade the compliance determination timing provisions; applying zoning standards in a manner that does not facilitate and accommodate densities allowed by the general plan; and requiring rezoning where zoning standards are inconsistent with the general plan;

5. For writ of mandate or other appropriate relief, including an injunction, declaration, and/or order, commanding Respondents to comply with the Housing Accountability Act with respect to the proposed Project at 5353 Del Moreno Drive, including, but not limited to, an order that the Project is deemed compliant and directing Respondents to approve the housing development project within 60 days due to Respondents' bad faith actions pursuant to Gov. Code § 65589.5;

6. For costs of suit herein;

7. For reasonable attorneys' fees under Code of Civil Procedure § 1021.5 and Gov. Code § 65589.5;

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8. For fines and penalties to be assessed pursuant to Gov. Code § 65589.5; and

9. For any other relief that the Court deems just and proper.

Dated: November 24, 2021

ZACKS, FREEDMAN & PATTERSON, P.C.

By: Ryan J. Patterson
Attorneys for Petitioners Yes in My Backyard and Sonja Trauss

Dated: November 24, 2021

JEFFER MANGELS BUTLER & MITCHELL, LLP

By: Daniel Freedman
Attorneys for Petitioner Janet Jha

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VERIFICATION

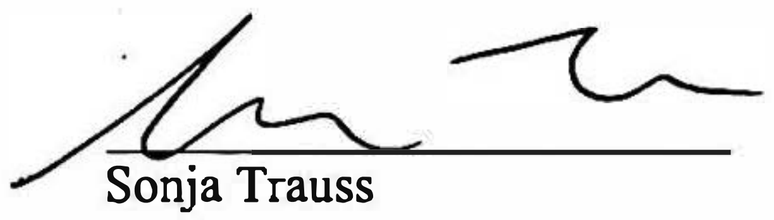
I, Sonja Trauss, declare as follows:

1. I am a natural person and a resident of the State of California. I am a petitioner in this action, the Executive Director of petitioner Yes in My Back Yard ("YIMBY"), and a member of YIMBY Action. I am authorized to verify this Petition for Writ of Mandate, Prohibition, or Other Extraordinary Relief; and Complaint for Declaratory Relief; on behalf of YIMBY.

2. I have read the foregoing Petition for Writ of Mandate, Prohibition, or Other Extraordinary Relief; and Complaint for Declaratory Relief and know its contents. The matters stated in the Petition for Writ of Mandate, Prohibition, or Other Extraordinary Relief; and Complaint for Declaratory Relief are true of my own knowledge, except as to those matters that are alleged on information and belief, and as to those matters I believe them to be true.

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

Executed on November 24, 2021



Sonja Trauss

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VERIFICATION

I, Janet Jha, declare as follows:

I am a natural person and a resident of the State of California. I have read the foregoing Petition for Writ of Mandate, Prohibition, or Other Extraordinary Relief; and Complaint for Declaratory Relief and know its contents. The matters stated in the Petition for Writ of Mandate, Prohibition, or Other Extraordinary Relief; and Complaint for Declaratory Relief are true of my own knowledge, except as to those matters that are alleged on information and belief, and as to those matters I believe them to be true.

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

Executed on November 24, 2021

_____
Janet Jha