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County of Santa Clara
25CV475774
By: sfarnham

SUPERIOR COURT OF CALIFORNIA

COUNTY OF SANTA CLARA

THE LATALA GROUP, LLC, et al., Petitioners/Plaintiffs, vs. COUNTY OF SANTA CLARA, et al., Respondents/Defendants.	Case No. 25CV475774 ORDER RE: DEMURRER TO FIRST AMENDED PETITION FOR WRIT OF MANDATE, PROHIBITION, OR OTHER EXTRAORDINARY RELIEF AND COMPLAINT FOR DECLARATORY RELIEF; SETTING CMC (*Order on Submitted Matter*)

Before the court is a demurrer to the first amended petition for writ of mandate, prohibition, or other extraordinary relief and complaint for declaratory relief (petition), brought by respondents and defendants the County of Santa Clara, the County of Santa Clara Planning Commission, and the County of Santa Clara Department of Planning and Development. The matter came on for hearing before the Honorable Helen E. Williams on February 17, 2026, at 1:30 p.m. in Department 66 and was thereafter submitted. After full consideration of the papers on both

sides, the authorities submitted, as well as oral argument by the parties, the court orders as follows:

I. Factual and Procedural Background[1]

A. Introduction

This case presents a petition for writ of mandate and a complaint for declaratory relief brought by petitioners and plaintiffs The Latala Group, LLC (Latala Group) and Yes in My Back Yard (YIMBY) (collectively, Petitioners) against respondents and defendants the County of Santa Clara (County), the County of Santa Clara Planning Commission (Planning Commission), and the County of Santa Clara Department of Planning and Development (collectively, Respondents).

As alleged by Petitioners, in recent years, the California Legislature has sought to address what it has described as a "housing supply and affordability crisis of historic proportions." (First Amended Petition [FAP] at ¶ 4; Gov. Code, § 65589.5, subd. (a)(2).[2]) At the core of California's affordable housing crisis is a failure to build enough housing to meet demand. (FAP at ¶ 5.) The Legislature recognized the crisis is driven, in part, "by activities and policies of many local governments that limit the approval of housing… ." (FAP at ¶ 6; § 65589.5, subd. (a)(1)(B).)

As further alleged, despite astronomical housing costs caused by limited supply, the County continues to subvert state housing laws that were designed to speed the pace of new housing construction. (FAP at ¶ 10.) In particular, Respondents' pattern of conduct includes, but is not limited to: (1) affirmatively subverting the Permit Streamlining Act (PSA) and the Housing Crisis Act (HCA) through arbitrary and bad-faith application procedures and policies; (2) ignoring state housing laws that expressly permit low-income housing development projects,

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[1] This background section, including the descriptions and characterizations of the relevant housing laws, is taken from the allegations of the petition and for purposes of the demurrer only.

[2] Further unspecified statutory references are to the Government Code.

regardless of zoning or land use designation, when a jurisdiction does not have a compliant housing element; and (3) denying housing applicants vesting rights after the submittal of complete preliminary applications. (*Id.* at ¶ 11.) Respondents routinely disapprove housing development projects administratively, under the guise of "incomplete application" determinations, to evade state law and judicial review. (*Id.* at ¶ 12.)

B. Housing Accountability Act and Builder's Remedy

A significant factor that has contributed to the housing crisis is the failure of local governments to adequately plan to provide housing for all income levels. (FAP at ¶ 24.) To ensure that a local government's zoning capacity is sufficient to accommodate the housing needs of everyone in the community, the Housing Element Law requires each local government to adopt a housing element as part of its general plan. (*Ibid.*) A housing element must include, among other things, an assessment of the jurisdiction's housing needs, an inventory of sites that can be developed as residential housing and development constraints, and a rezoning program to meet housing needs. (*Ibid.*)

Once a jurisdiction's housing element update is complete, it must be submitted to the state Department of Housing and Community Development (HCD) for review. (FAP at ¶ 26.) HCD is the state agency authorized to interpret and enforce state housing law. (*Ibid.*) HCD then determines whether the housing element is "substantially compliant" with the requirements of state housing law. (*Ibid.*)

Because planning to provide adequate housing is the fundamental first step in solving the housing crisis, the Legislature has enacted a series of legal consequences for local governments that fail to carry out this basic requirement. (FAP at ¶ 27.) To that end, the Housing Accountability Act (HAA) provides an avenue for developers to provide desperately needed housing when a local

government fails to carry out its responsibility to timely adopt a substantially compliant housing element. (*Ibid.*)

Known as the "builder's remedy," a local government is required to approve certain qualifying housing development projects, or not lower the density or otherwise condition approval in a manner that renders the project infeasible, unless the local government can make certain written findings based upon a preponderance of the evidence. (FAP at ¶ 28.) Housing projects that reserve at least 13 percent of the homes for low-income households are potentially eligible for the builder's remedy. (*Ibid.*)

Under the builder's remedy, a local government cannot deny a qualifying housing development project, even if the project is inconsistent with the jurisdiction's zoning and general plan land use designation, if the local government has not adopted a housing element in substantial compliance with the Housing Element Law. (FAP at ¶ 30.) Otherwise, a local government must make written findings that one of four other specifically enumerated disapproval findings applies. (*Ibid.*)

C. PSA

The PSA, codified at section 65920, et seq., is intended to expedite decisions on development projects. (FAP at ¶ 39.) The PSA requires public agencies to compile lists that specify the information that will be required for a formal development application for a development project; includes strict timelines for agencies to determine whether an application is complete; and provides a process for an applicant to appeal an incompleteness determination wherein an agency must make a final determination on the appeal within 60 days. (*Ibid.*)

The PSA provides an iterative process to ensure that local agencies have sufficient information to process applications while also ensuring timely processing of proposed projects. (FAP at ¶ 40.) Once a formal development application is submitted, the local government has 30 days to determine whether the application

is complete. (*Id.* at ¶ 40; § 65943.) If the local government determines that the application is incomplete, it must provide an "exhaustive list" of the items that are missing with a "thorough description of the specific information needed to complete the application." (*Ibid.*) Any incompleteness determination "shall be limited to those items actually required on the lead agency's submittal requirement checklist." (*Ibid.*) Upon a resubmittal of the application by the applicant in response to an incompleteness determination, "a new 30-day period shall begin, during which the public agency shall determine the completeness of the application." (*Ibid.*)

D. HCA

The HCA, also referred to as SB 330, added a new section to the PSA that allows a housing development applicant to submit a "preliminary application." (FAP at ¶ 45.) The purpose of the preliminary application is to "vest" the zoning and general plan standards that are in effect at the time a complete preliminary application is submitted. (*Ibid*.) In other words, housing development projects are subject only to the ordinances, policies, and standards that were adopted and in effect at the time a complete preliminary application is submitted. (*Ibid*.)

If the preliminary application submittal occurs at a time when a jurisdiction does not have a compliant housing element, any benefits afforded to the applicant as a result of the jurisdiction's noncompliant status, including the builder's remedy, remain throughout the entitlement process. (FAP at ¶ 46.)

A preliminary application is considered expired if the applicant does not submit a complete formal development application within 180 days of the preliminary application submittal. (FAP at ¶ 49.) But, if the applicant submits a development application within 180 days of the preliminary application in response to which the local government issues a written incompleteness determination, the HCA provides additional time for the applicant to achieve a complete application while maintaining vesting rights. (*Id.* at ¶ 50.)

The HCA does so by referencing the PSA's iterative completeness determination process. (FAP at ¶ 51.) The HCA provides that "[i]f the public agency determines that the application for the development project is not complete pursuant to Section 65943, the development proponent shall submit the specific information needed to complete the application within 90 days of receiving the agency's written identification of the necessary information. If the development proponent does not submit this information within the 90-day period, then the preliminary application shall expire and have no further force or effect." (FAP at ¶ 51; § 65941.1, subd. (e)(2).)

E. The County is Subject to the Builder's Remedy

For jurisdictions within the Association of Bay Area Governments, which includes the County, the sixth housing element cycle began on January 31, 2023. (FAP at ¶ 63.) But the County failed to adopt a revised housing element in substantial compliance with the Housing Element Law by its January 31, 2023 statutory deadline. (*Ibid.*)

The County ultimately submitted a fifth draft to HCD on January 29, 2025. (FAP at ¶ 65.) HCD certified that the County's housing element was in substantial compliance with Housing Element Law on February 5, 2025. (*Ibid.*) Thus, the County was subject to the builder's remedy from January 31, 2023, to February 5, 2025. (*Ibid.*)

F. Relevant Factual Allegations

On November 19, 2024, petitioner Latala Group submitted a preliminary application for a 173-unit project, with 20 percent of the units set aside as affordable to lower-income households on a parcel located at 20202 Harry Road, in unincorporated Santa Clara County (the Project). (FAP at ¶ 66.) The Project qualified for protections under the builder's remedy. (*Id.* at ¶ 70.)

Latala Group timely submitted a formal development application for the Project on February 12, 2025, 85 days after the preliminary application and well within the 180-deadline established by the HCA. (FAP at ¶ 71.)

Thirty days later, the County found the application to be incomplete and issued an incompleteness letter (First Incompleteness Letter) identifying 38 missing items. (FAP at ¶ 72.) The First Incompleteness Letter stated that petitioner Latala Group had 90 days to respond to all 38 missing items identified by six different County departments or else the Project's vesting rights would expire. (*Ibid.*)

On May 29, 2025, petitioner Latala Group resubmitted the application in response to the County's First Incompleteness Letter. (FAP at ¶ 75.) This submittal was within the 90-day timeline (i.e., by June 11, 2025) to respond to an incompleteness determination to maintain vesting rights. (*Ibid.*) The resubmittal included a response to all 38 items listed in the County's First Incompleteness Letter. (*Id.* at ¶ 76.)

Twenty-eight days later, on June 26, 2025, the County provided petitioner Latala Group with another "incompleteness" determination letter (Second Incompleteness Letter). (FAP at ¶ 81.) The Second Incompleteness Letter reduced the prior 38 purportedly "missing" items down to just two – both of which were related to the Almaden Expressway Official Plan Line. (*Ibid.*)

Despite that the resubmission by Latala Group occurred within 90 days of the County's First Incompleteness Letter and the HCA's iterative process is supposed to provide applicants with another 90 days to respond should the resubmittal be determined to be incomplete, the County took the position that petitioner Latala Group's vesting rights had expired. (FAP at ¶ 85.) And because the County had later achieved substantial compliance with the Housing Element Law, the County took the further position that Latala Group had lost its right to pursue a builder's remedy project. (*Ibid.*)

Because the Second Incompleteness Letter was sent beyond 90 days after the First Incompleteness Letter, according to the County's position, petitioner Latala Group did not have and was not entitled to another opportunity to resubmit the application in response to the Second Incompleteness Letter to maintain its vesting rights conferred by its earlier submittal of a preliminary application. (FAP at ¶ 86.)

Left with no other recourse, petitioner Latala Group timely appealed the County's Second Incompleteness Letter in compliance with Santa Clara County Code Sections 5.20.080 and 5.30.020. (FAP at ¶ 89.) The appeal set forth a detailed explanation as to why the County's refusal to recognize the Project's vesting rights was plainly erroneous and conflicted with the plain language and intent of state housing law. (*Ibid.*) The appeal explained that, under the PSA, an applicant has multiple 90-day opportunities to respond to an agency's serial determinations of incompleteness. (*Ibid.*)

On July 17, 2025, petitioner YIMBY submitted a letter to the County stating that the County's incompleteness determination was not in compliance with California law and that the County's determination that the preliminary application had expired with the resulting loss of vesting rights violated the HAA. (FAP at ¶ 93.) YIMBY warned the County that YIMBY would be forced to file a lawsuit if the County failed to recognize the Project's vesting rights and follow the law. (*Id.* at ¶ 95.)

The Planning Commission heard petitioner Latala Group's appeal on August 28, 2025. (FAP at ¶ 97.) The Planning Commission voted 4-3 to deny the appeal. (*Id.* at ¶ 103.) The following day, the County confirmed that the Planning Commission's action was final and non-appealable. (*Id.* at ¶ 106.)

G. Motion Before the Court

This mandate proceeding followed. On November 25, 2025, Petitioners filed the operative FAP against Respondents alleging causes of action for: (1) a writ of mandate under Code of Civil Procedure section 1094.5 and/or section 1085 for

violation of HCA, section 65941.1; (2) a writ of mandate under Code of Civil Procedure section 1094.5 and/or section 1085 for violation of PSA, section 65920 et seq.; (3) a writ of mandate under Code of Civil Procedure section 1094.5 and/or section 1085 for violation of HAA, section 65589.5; and (4) declaratory relief under Code of Civil Procedure section 1060. This fourth cause of action pleads the existence of a controversy between the parties concerning Respondents' obligations and duties under the law, including but not limited to their policies, patterns, and practices that "operate to avoid obligations established by state law, including disregarding the vesting rights of housing development project applications." (FAP at ¶ 147.) Further allegations are that "Respondents have violated state housing law by determining that at least six other preliminary applications have expired after a single 90-day period despite timely application resubmittals … . In each instance, Respondents have sent a letter to the applicant explaining Respondents' unlawful policy." (*Ibid*.)

On December 22, 2025, Respondents filed a demurrer to the FAP challenging the first and fourth causes of action only. Petitioners filed written opposition. Respondents filed reply papers. Both sides filed requests for judicial notice.

II. Demurrer

Respondents argue the first and fourth causes of action fail as a matter of law based on the proper interpretation of section 65941.1, subdivisions (e)(1) and (e)(2), which, they contend, do not allow for iterative 90-day periods for an applicant to respond to serial determinations of incompleteness without loss of vesting rights after a single 90-day period has elapsed.[3]

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[3] Code of Civil Procedure section 430.60 requires a demurring party to "distinctly specify the grounds upon which any objections to the [pleading] are taken. Unless it does so, it may be disregarded." The statutory grounds for demurrer are listed at Code of Civil procedure section 430.10, which at (e), include the ground that the pleading does not state facts sufficient to constitute a cause of action. Respondents did not reference any statutory ground in their notice of demurrer, instead targeting the first and fourth causes of action for "fail[ure] to

A. Respondents' Request for Judicial Notice

"Judicial notice is the recognition and acceptance by the court, for use by the trier of fact or by the court, of the existence of a matter of law or fact that is relevant to an issue in the action without requiring formal proof of the matter." (*Poseidon Development, Inc. v. Woodland Lane Estates, LLC* (2007) 152 Cal.App.4th 1106, 1117.)

In support of the demurrer, Respondents request judicial notice of the following:

(1) Office of the Attorney General, Guidelines Regarding Attorney General Opinions under Government Code Section 12519 (August 2022);

(2) Senator Nancy Skinner, Response to the Assembly Committee on Local Government Committee Background Request Regarding Senate Bill 330 (2019);

(3) Assembly Committee on Local Government, Report on Senate Bill 330 (July 10, 2019).

(4) Authentication of Legislative History. (See Request for Judicial Notice ["RJN"] at Exs. A-D.)

The request is unopposed and it appears relevant to issues raised in connection the demurrer. (See *Gbur v. Cohen* (1979) 93 Cal.App.3d 296, 301[information subject to judicial notice must be relevant to the issue at hand].) The court grants the request and takes judicial notice of Exhibit A as the General Guidelines Regarding Attorney General Opinions are publicly available online and not reasonably subject to dispute. (Evid. Code, § 452, subds. (c), (h); see, e.g., *Taxpayers for Improving Public Safety v. Schwarzenegger* (2009) 172 Cal.App.4th 749, 771 [appellate court took judicial notice of Attorney General Opinion under Evidence Code section 452, subd. (c)].) The court takes judicial notice of Exhibits B

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state a claim," which the court will construe as an invocation of Code of Civil Procedure section 430.10, subdivision (e) as the intended ground for demurrer.

through D as they constitute legislative history materials with respect to SB 330. (Evid. Code, § 452, subd. (c); see *Global Financial Distributors Inc. v. Super. Ct.* (2019) 35 Cal.App.5th 179, 190, fn. 4 ["We grant Global Financial' s request to take judicial notice of the legislative history of [Code of Civil Procedure] section 418.10"]; see also *Guinn v. County of San Bernardino* (2010) 184 Cal.App.4th 941, 949, fn. 4 ["We take judicial notice of the legislative history materials pertaining to Senate Bill No. 2215 contained in the record on appeal"].)[4]

B. Petitioners' Request for Judicial Notice

In opposition, Petitioners request judicial notice of the following:

(1) Senate Floor Analysis of Senate Bill 330 dated September 5, 2019.

(2) Senate Committee on Governance and Finance Analysis of Senate Bill 330, dated April 5, 2019. (See RJN at Exs. A-B.)

The request is unopposed and is relevant to arguments raised in support of the opposition. The court grants the request and takes judicial notice of Exhibits A-B as they constitute legislative reports and analyses in connection with SB 330. (Evid. Code, § 452, subd. (c); see *Kaufman & Broad Communities, Inc. v. Performance Plastering, Inc.* (2005) 133 Cal.App.4th 26, 32 [legislative reports and analyses are proper subjects of judicial notice].)

C. Legal Standard

A complaint must contain substantive factual allegations sufficiently apprising the defendant of the issues to be addressed. (*Williams v. Beechnut Nutrition Corp.* (1986) 185 Cal.App.3d 135, 139, fn. 2.)

"In reviewing the sufficiency of a complaint against a general demurer, we are guided by long settled rules. 'We treat the demurrer as admitting all material

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[4] The court declines to consider Respondents' second request for judicial notice (California Dept. of Housing and Community Dev., Housing Accountability Act Technical Assistance Advisory (Sept. 15, 2020)) as it constitutes new evidence submitted for the first time with the reply papers. (See *Valentine v. Plum Healthcare Group, LLC* (2019) 37 Cal.App.5th 1076, 1089 ["New evidence is generally not permitted with reply papers"].)

facts properly pleaded, but not contentions, deductions or conclusions of fact or law. [Citation.] We also consider matters which may be judicially noticed.' [Citation.] Further, we give the complaint a reasonable interpretation, reading it as a whole and its parts in their context. [Citation.]" (*Blank v. Kirwan* (1985) 39 Cal.3d 311, 318.)

" 'It is not the ordinary function of a demurrer to test the truth of the plaintiff's allegations or the accuracy with which he describes the defendant's conduct. A demurrer tests only the legal sufficiency of the pleading. [Citation.]' [Citation.] In reviewing the ruling on a demurrer, 'the question of plaintiff's ability to prove these allegations, or the possible difficulty in making such proof does not concern the reviewing court [citations] … .' [Citation.] 'To survive a demurrer, the complaint need only allege facts sufficient to state a cause of action; each evidentiary fact that might eventually form part of the plaintiff's proof need not be alleged. [Citation.]' [Citation.] A complaint's allegations are construed liberally in favor of the pleader. [Citations.]" (*Ferrick v. Santa Clara University* (2014) 231 Cal.App.4th 1337, 1341.)

Also, " 'it is error for a trial court to sustain a demurrer when the plaintiff has stated a cause of action under any possible legal theory. [Citation.] And it is an abuse of discretion to sustain a demurrer without leave to amend if the plaintiff shows there is a reasonable possibility any defect identified by the defendant can be cured by amendment.' [Citations.]" (*Gregory v. Albertson's, Inc.* (2002) 104 Cal.App.4th 845, 850.)

A petition for writ of mandate is subject to a demurrer on the same grounds as a civil complaint. (See Code Civ. Proc., § 1109; see also *Hilton v. Board of Supervisors of Santa Barbara County* (1970) 7 Cal.App.3d 708, 713 ["the sufficiency of a petition in a mandamus proceeding can be tested by demurrer"].)

D. First Cause of Action: Writ of Mandate

Respondents contend the first cause of action for a writ of mandate turns on a pure question of law – the correct interpretation of the 90-day deadline in section 65941.1, subdivision (e)(2) and its implications and effect. That provision states:

> If the public agency determines that the application for the development project is not complete *pursuant to Section 65943* [the PSA], the development proponent shall submit the specific information needed to complete the application within 90 days of receiving the agency's written identification of the necessary information. *If the development proponent does not submit this information within the 90-day period, then the preliminary application shall expire and have no further force or effect*. (§ 65941.1, subd. (e)(2), italics added.)

Petitioners allege the 90-day deadline to resubmit a development application or supply information identified as missing in an incompleteness determination in section 659.41.1, subdivision (e)(2) resets following the applicant's timely resubmission of application materials or information in response to an incompleteness determination and any further incompleteness determination by the agency, and that the process is iterative. (See FAP at ¶¶ 85, 114-117.) As a result, according to Petitioners, the Project at issue here maintained its vesting rights even after the County's Second Incompleteness Letter and even though one 90-day period after the First Incompleteness Letter had expired. On demurrer, Respondents argue the statute provides for and contemplates only a single 90-day period during which an applicant must provide the information identified in an incompleteness determination, and that the deadline period does not repeat after a further incompleteness determination. In other words, according to Respondents, the statute does not contemplate multiple resubmittals by the applicant in response to serial incompleteness determinations in an iterative process that maintains the status of vesting rights for a project for which a preliminary application was submitted under section 65941.1, subdivision (e)(1).

The merit of the first cause of action for a writ of mandate pivots on this legal issue. The court thus turns to principles of statutory interpretation to construe the relevant portion of the operative statute, section 65941.1, subdivisions (e)(1) and (e)(2).

1. Rules of Statutory Interpretation

"Our essential task in interpreting a statute ' "is to determine the Legislature's intent so as to effectuate the law's purpose. We first examine the statutory language, giving it a plain and commonsense meaning. We do not examine that language in isolation, but in the context of the statutory framework as a whole in order to determine its scope and purpose and to harmonize the various parts of the enactment. If the language is clear, courts must generally follow its plain meaning unless a literal interpretation would result in absurd consequences the Legislature did not intend. If the statutory language permits more than one reasonable interpretation, courts may consider other aids, such as the statute's purpose, legislative history, and public policy." [Citation.] "Furthermore, we consider portions of a statute in the context of the entire statute and the statutory scheme of which it is a part, giving significance to every word, phrase, sentence, and part of an act in pursuance of the legislative purpose." [Citation.]' [Citation.]" (*Jackpot Harvesting Co., Inc. v. Super. Ct.* (2018) 26 Cal.App.5th 125, 140 (*Jackpot Harvesting*).)

"California courts follow an approach to determine legislative intent that involves up to three steps. [Citation.] The first step is our 'examin[ation of] the actual language of the statute. [Citations.]' [Citation.] We do so ' "because the statutory language is generally the most reliable indicator of legislative intent." [Citations.]' [Citation.] In this first step, we scrutinize 'words themselves, giving them their "usual and ordinary meanings" and construing them in context. [Citation.]' [Citation.] And we 'will apply common sense to the language at hand and interpret the statute to make it workable and reasonable. [Citation.]' [Citation.] In

doing so, if we find the statutory language to be 'clear, its plain meaning should be followed. [Citation.]' [Citation.] Thus, if there is no ambiguity, ' "we presume the Legislature meant what it said, and the plain meaning of the language governs. [Citations.]" ' [Citation.]" (*Jackpot Harvesting, supra,* 26 Cal.App.5th at pp. 140-141.)

"If we determine the statutory language is unclear, we will proceed to the second step and review the legislative history. [Citations.] In doing so, we 'examine the legislative history and statutory context of the act under scrutiny.' [Citation.] Under these circumstances, we 'select the construction that comports most closely with the apparent intent of the Legislature, with a view to promoting rather than defeating the general purpose of the statute, and avoid an interpretation that would lead to absurd consequences.' [Citation.]" (*Jackpot Harvesting, supra,* 26 Cal.App.5th at p. 141.)

"In the event the proper interpretation of the statute is not evident after examining the legislative history, 'we must cautiously take the third and final step in the interpretive process. [Citation.] … Where an uncertainty exists, we must consider the consequences that will flow from a particular interpretation. [Citation.] Thus, "[i]n determining what the Legislature intended, we are bound to consider not only the words used, but also other matters, 'such as context, the object in view, the evils to be remedied, the history of the times and of legislation upon the same subject, public policy and contemporaneous construction.' [Citation.]" [Citation.]' [Citation.]" (*Jackpot Harvesting, supra,* 26 Cal.App.5th at p. 141.)

"An overarching principle for our interpretation of statutes is that courts have a 'limited role in the process of interpreting enactments from the political branches of our state government. In interpreting statutes, we follow the Legislature's intent, as exhibited by the plain meaning of the actual words of the law, " ' "whatever may be thought of the wisdom, expediency, or policy of the act." ' " [Citation.] "… [T]he judicial role in a democratic society is fundamentally to

interpret laws, not write them. …" [Citation.] It cannot be too often repeated that due respect for the political branches of our government requires us to interpret the laws in accordance with the expressed intention of the Legislature. "This court has no power to rewrite the statute so as to make it conform to a presumed intention which is not expressed." [Citations.]' [Citation.]" (*Jackpot Harvesting, supra,* 26 Cal.App.5th at pp. 141–142.)

Finally, as relevant here to the proper construction of the relevant statute, the vesting of rights by the completion of a preliminary application is part of the HAA, which, at section 65589.5, subdivision (o)(1), refers over to section 65941.1, which is part of the PSA and the relevant statute at issue here. The Legislature has expressly added what has been described as an "interpretive gloss" or command to the HAA at section 65589.5, subdivision (a)(2)(L), which provides that it "is the policy of this state 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." (See *Save Lafayette v. City of Lafayette* (2022) 85 Cal.App.5th 842, 853; *California Renters Legal Advocacy and Education Fund v. City of San Mateo* (2021) 68 Cal.App.5th 820, 854.) This "gloss" thus applies here in the interpretation or construction of section 65941.1.

2. Plain Language of Section 65941.1, subdivision (e)

Under the above principles, the court first examines the plain language set forth in section 65941.1, subdivision (e)(1) and (e)(2), which provide:

> (1) Within 180 calendar days after submitting a preliminary application with all of the information required by subdivision (a) to a city, county, or city and county, the development proponent shall submit an application for a development project that includes all of the information required to process the development application consistent with Sections 65940, 65941, and 65941.5.
>
> (2) If the public agency determines that the application for the development project is not complete *pursuant to Section 65943*, the development proponent shall submit the specific information needed to complete the application within 90 days of receiving the agency's written identification

> of the necessary information. *If the development proponent does not submit this information within the 90-day period, then the preliminary application shall expire and have no further force or effect.* (§ 65941.1, subd. (e)(1) – (2), italics added.)

As to section 65941.1, subdivision (e)(2), it is Respondents' position that the plain language refers only to a single 90-day period for resubmission of completed application materials by an applicant. If the development proponent fails to submit the missing items within those 90 days, the preliminary application "shall expire and have no further force or effect." In other words, the 90-day period does not reset after a second or later incompleteness determination in response to a prior resubmission.

On its face, the statute itself does not explicitly say whether an applicant's resubmission or response to an incompleteness determination is limited to a single 90-day period or whether this process is iterative and can be repeated. Respondents assert the phrase "*the* 90-day period" (italics added) is synonymous with a single resubmission or response period within which to complete the development application, directing the court specifically to the article "the." But, as Petitioners contend, it is more linguistically likely in the context of the statute and the PSA as a whole that the word "the" preceding "90-day period" in section 65941.1, subdivision (e)(2) is simply an anaphoric reference—a word or phrase that refers back to an antecedent term already mentioned in the text to ensure coherence and reduce repetition—to the "90 days" in the prior sentence and without limitation on the number of 90-day periods allowed.

Despite Respondents' arguments, there is no such frequency limitation mentioned in section 65941.1, subdivision (e)(2) and a plain reading does not require the interpretation they proffer. Furthermore, Respondents' position improperly isolates the terms "90 days" and "the 90-day period" in section 65941.1, subdivision (e)(2), plucking them from the entire operative statutory scheme of which this section is a part and ignoring their place and context within this very

subdivision, which specifically cross-references section 65943. Section 65943 is likewise contained within the PSA and provides for the iterative process leading to a determination of completeness. Subdivision (a) of that section states in full:

> "Not later than 30 calendar days after any public agency has received an application for a development project, the agency shall determine in writing whether the application is complete and shall immediately transmit the determination to the applicant for the development project. If the application is determined to be incomplete, the lead agency shall provide the applicant with an exhaustive list of items that were not complete. That list shall be limited to those items actually required on the lead agency's submittal requirement checklist. In ***any*** *subsequent review* of the application determined to be incomplete, the local agency shall not request the applicant to provide any **new** information that was not stated in the initial list of items that were not complete. If the written determination is not made within 30 days after receipt of the application, and the application includes a statement that it is an application for a development permit, the application shall be deemed complete for purposes of this chapter. *Upon receipt of* ***any*** *resubmittal application, a new 30-day period shall begin, during which the public agency shall determine the completeness of the application*. If the application is determined not to be complete, the agency's determination shall specify those parts of the application which are incomplete and shall indicate the manner in which they can be made complete, including a list and thorough description of the specific information needed to complete the application. The applicant shall submit materials to the public agency in response to the list and description." (§ 65943, subd. (a), italics & bold added.)

The express incorporation of section 65943 into section 65941.1, subdivision (e)(2) indicates that the Legislature intended for the two statutes to be read in harmony with each other. (See *People v. Harrison* (2025) 116 Cal.App.5th 1145, 1156 ["[B]y this cross-reference, the Legislature indicated it intends these two statutes to be read together."].) Doing so establishes that there is a new 30-day period during which the public agency must determine the completeness of the development application with every resubmission or response to an incompleteness determination made within 90 days of a prior incompleteness determination, after the initial development application is made within 180 days of a complete preliminary application, as referenced in section 65941.1, subdivision (e)(1). And

that the 90-day periods continue with each subsequent determination of incompleteness.

The use of the words "any" and "new" as referencing a resubmittal in section 65943, subdivision (a) also suggests that multiple resubmissions in response to succeeding incompleteness determinations may be made without a preliminary application expiring, as provided in section 65941.1, subdivision (e)(2). Indeed, neither statute expressly limits the number of resubmissions by a development proponent in response to successive incompleteness determinations. Therefore, the incorporation of section 65943 into section 65941.1, subdivision (e)(2) supports a plain reading of the latter that multiple resubmissions within 90 days of successive incompleteness determinations, ultimately leading to completeness by an ever-narrowing list of incomplete items, are allowed without expiration of the vesting conferred by a preliminary application.

Respondents urge the court to disregard the statute's cross-reference to section 65943 because, as they contend: (1) the reference to section 65943 merely establishes the applicable standards and deadlines for a public agency to conduct its completeness review; (2) section 65943 does not modify an applicant's deadline to resubmit materials as it only addresses public agencies' deadlines; and (3) to the extent section 65943 anticipates an iterative process for resubmissions, the two statutes must be interpreted based predominantly on section 65941.1, as the more specific statute.

The court is not convinced by these arguments as the two statutes can be read in harmony in the manner and for the reasons articulated above to the opposite conclusion. They do not conflict and they are not inconsistent. Nor does the court find Respondents' narrow construction of section 65943 as applying only to deadlines affecting agencies to be compelling in light of its express incorporation into section 65941.1. While section 65943 does not extend any deadline applicable to a project applicant, it still describes the triggering and final event of the process

leading to an incompleteness determination that starts anew an applicant's 90 days to resubmit or respond.

And, as argued by Petitioners, Respondents' narrow reading here purportedly based on the "last antecedent rule" is misplaced. This rule of grammar provides that a qualifying phrase should be applied "to the words or phrases immediately preceding and are not to be construed as extending to or including others more remote." (*White v. County of Sacramento* (1982) 31 Cal.3d 676, 680; but see *Costco Wholesale Corp. v. Workers' Comp. Appeals Board* (2007) 151 Cal.App.4th 148, 153 [in any event, rejecting application of the last antecedent rule as controlling and instead applying the rule that a court is to construe a statute so as to effectuate the purpose of the law].) The phrase "pursuant to section 65943" in section 65941.1, subdivision (e)(2) immediately follows the phrase "*the application* for the development project." (Italics added.) Applying the last antecedent rule confirms that "pursuant to section 65943" applies anytime *the application* is deemed incomplete.

The court thus concludes that a plain and textual reading of section 65941.1, subdivision (e)(2) allows for multiple and successive 90-day periods within which an applicant may respond to serial incompleteness determinations following the initial submission of a development application within 180 days of a complete preliminary application as provided at section 65941.1, subdivision (e)(1) and later resubmissions, without loss of project vesting and access to the builder's remedy.

3. Legislative History and Other Interpretative Aids

As noted, where the terms of a statute are clear, there is no need to resort to interpretative aids. (See *City of Brentwood v. Department of Finance* (2020) 54 Cal.App.5th 418, 428 ["if the language is clear and unambiguous, there is no need to resort to other indicia of legislative intent"].) But, "[w]here statutory provisions are unclear, they should be interpreted to achieve the purpose of the statutory scheme and the public policy underlying the legislation. [Citation.] 'An important aid in this

regard is the legislative history of the statute. [Citation.]' [Citation.]" (*Conrad v. Medical Bd.* (1996) 48 Cal.App.4th 1038, 1046.) The court has concluded that the terms of section 65941.1, subdivision (e)(2), read in the context of the statute as a whole and the entire statutory scheme of which it is a part, is clear enough to permit a facial or textual reading. Respondents do not contend in any event that the statute is ambiguous, arguing instead that its plain meaning supports their interpretation. But if interpretative aids are required because of some ambiguity, if anything, they appear to support the same plain statutory meaning the court has ascribed to section 65941.1, subdivision (e)(2).

Respondents contend the legislative history and policy purpose of the statute demonstrate the Legislature's intent to impose a single 90-day deadline. In support, they direct the court to legislative history materials regarding SB 330 included with their request for judicial notice. (See Respondents' RJN at Exs. B-C.) But considering them does not lead to the conclusion that the Legislature intended to limit section 65941.1, subdivision (e)(2) to one 90-day resubmission period for a project proponent to retain vested rights conferred by a preliminary application. Nothing in the proffered legislative history compels a contrary conclusion.

Respondents also urge the court to refrain from giving weight or deference to the following sources cited by Petitioners in the petition: (1) a letter issued by HCD identifying potential violations of section 65941.1; (2) a Legal Alert distributed by the Office of the Attorney General in November 2025; and (3) the Los Angeles County Superior Court decision in *Jha v. City of Los Angeles, et al.* (case no. 23STCP03499). (See FAP at ¶¶ 59-61, 96.)

But the court's review is limited on demurrer to the well-pleaded allegations of the complaint and judicially noticed materials. The court is unable to review the specific contents of these sources as they are not attached to the operative pleading or incorporated in a request for judicial notice to determine if they should be afforded deference. As a consequence, to the extent Petitioners rely on these sources

to demonstrate that their interpretation of the statute should be afforded deference, the court accepts their interpretation of the materials as pleaded for purposes of demurrer. (See *Olson v. Toy* (1996) 46 Cal.App.4th 818, 823 [for purposes of demurrer, we accept these allegations as true].) And, at a minimum, such deference should be afforded to the HCD letter. (See *Martinez v. City of Clovis* (2023) 90 Cal.App.5th 193, 243 ["[C]ourts generally will not depart from the HCD's determination unless 'it is clearly erroneous or unauthorized.' [Citations.]"].)

As a final point, the court briefly addresses the public policy arguments in connection with this issue. (See *Moore v. Super. Ct.* (2020) 58 Cal.App.5th 561, 54 [for purposes of statutory interpretation, the court may consider "evils to be remedied" by the statute and public policy].) In particular, Respondents contend that Petitioners' interpretation of the 90-day deadline and its implications and effects would: (1) allow developers to indefinitely maintain valuable vested rights for a project without making any progress towards building new housing; and (2) force public agencies to process long-standing applications based on inconsistent and outdated rules and regulations that vary depending on the age of each project. By contrast, Petitioners assert Respondents' interpretation would encourage gamesmanship in the PSA process and transform the completeness process into an adversarial flashpoint for litigation where courts, rather than planning departments, will be required to judge the application completeness. Petitioners argue that encouraging litigation before an application is deemed complete is not what the Legislature intended when it enacted the PSA and is not sound public policy.

The court concludes that the highlighted public policy and legislative purposes, on balance, favor the interpretation of section 65941.1, subdivision (e)(2) as proffered by Petitioners. The court is not convinced by Respondents' position that developers will necessarily drag their feet in building new housing while infinitely maintaining vesting of their projects. Rather, it appears that reading section

65941.1, subdivision (e)(2), as Respondents urge, to require the loss of project vesting after a single 90-day resubmission in response to an initial incompleteness determination fails to recognize the reality that achieving completeness of a development application, especially for large projects, inherently involves and may even require the iterative process as reflected in section 65943 and that the reading urged would likely result in more delay and less housing development as vesting rights are lost – anathema to the very purposes the Legislature is so obviously trying to achieve.

Based on the foregoing, the court rejects that the first cause of action fails to state a valid claim and the demurrer to this cause of action is overruled.

E. Fourth Cause of Action: Declaratory Relief

"Code of Civil Procedure section 1060, which governs actions for declaratory relief, provides: 'Any person interested under a written instrument … , or under a contract, or who desires a declaration of his or her rights or duties with respect to another … may, in cases of actual controversy relating to the legal rights and duties of the respective parties, bring an original action … for a declaration of his or her rights and duties in the premises, including a determination of any question of construction or validity arising under the instrument or contract.' " (*California Public Records Research, Inc. v. County of Yolo* (2016) 4 Cal.App.5th 150, 185.)

"[A] declaratory relief claim is subject to general demurrer where it relates to a substantive claim that is invalid as a matter of law. [Citation.] 'Where a trial court has concluded the plaintiff did not state sufficient facts to support a statutory claim and therefore sustained a demurrer as to that claim, a demurrer is also properly sustained as to a claim for declaratory relief which is "wholly derivative" of the statutory claim.' [Citation.]" (*City of Lancaster v. Netflix, Inc.* (2024) 99 Cal.App.5th 1093, 1114.)

In the fourth cause of action, Petitioners allege the existence of an actual controversy between Petitioners and Respondents concerning their obligations and

duties under California statutory law—including based on their respective and competing interpretations of section 65941.1, subdivision (e)(1) and (e)(2). (FAP at ¶ 145.) The alleged controversy also includes Respondents' policy, pattern, and practice surrounding the expiration of preliminary applications by which Respondents unlawfully deprive applicants of vesting rights for reasons other than those described in section 65941.1. (*Id.* at ¶ 146.) Respondents contend they should prevail on the declaratory relief claim as their interpretation of section 65941.1 governs this action. But the court has considered and rejected their arguments in this regard in connection with its ruling on the demurrer to the first cause of action, for reasons explained above.

Consequently, the demurrer to the fourth cause of action is likewise overruled.

III. Disposition

The demurrer to the first and fourth causes of action of the petition is overruled. The case is set for a case management conference on June 23, 2026, at 1:30 in Department 66.

Dated: May 11, 2026

Hon. Helen E. Williams
Judge of the Superior Court