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THE LATALA GROUP, LLC and YES IN MY BACK YARD

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SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SANTA CLARA- UNLIMITED JURISDICTION

THE LATALA GROUP, LLC; and YES IN MY BACK YARD, a California nonprofit corporation

Petitioners/Plaintiffs,

v.

COUNTY OF SANTA CLARA; COUNTY OF SANTA CLARA PLANNING COMMISSION; COUNTY OF SANTA CLARA PLANNING AND DEVELOPMENT DEPARTMENT; and DOES 1 through 25 inclusive,

Respondents/Defendants.

Case No.: 25CV475774

VERIFIED FIRST AMENDED PETITION FOR WRIT OF MANDATE, PROHIBITION, OR OTHER EXTRAORDINARY RELIEF; COMPLAINT FOR DECLARATORY RELIEF

[Code Civ. Proc. §§ 1060, 1085, 1094.5; Gov. Code §§ 65920 et seq., 65589.5, 65941.1, 65943]

Petitioners and plaintiffs THE LATALA GROUP, LLC ("Latala Group") and YES IN MY BACK YARD ("YIMBY"), by and through their attorneys, Patterson & O'Neill, PC ("Petitioners"), files this petition for writ of mandate and complaint for declaratory relief against respondents and defendants County of Santa Clara ("County"), County of Santa Clara Planning Commission ("Planning Commission"), and Does 1 through 25 (collectively, "Respondents"), to

compel Respondents to comply with their duties under the state Housing Accountability Act ("HAA") (Gov. Code § 65589.5), state Housing Crisis Act (Gov. Code § 65941.1), and state Permit Streamlining Act ("PSA") (Gov. Code § 65943), as further set forth below. Petitioners allege as follows:

INTRODUCTION

1. This case demonstrates why California continues to suffer from a housing crisis of epic proportions. Respondents failed to carry out their responsibilities to adequately and timely plan to accommodate their fair share of the region's housing needs. Because of that failure, the County lost discretion to disapprove certain housing projects. Rather than accept the consequences of their own making, Respondents abused procedural mechanisms in bad faith to prevent a housing development project applicant from exercising its rights under state law.

2. The County is attempting to weaponize the permit application process, turning it into a high stakes game of "gotcha" to erroneously extinguish Petitioner Latala Group's vesting rights. This directly contradicts the Legislature's intent when it enacted the HCA, which was designed to make vesting rights *easier* for housing projects to obtain and maintain throughout the application process. The County has only taken up this tactic now in an effort to prevent housing projects from proceeding under the "builder's remedy" – a critical provision of the HAA that the Legislature significantly strengthened when it enacted AB 1893 last year.

3. Rather than following the Legislative command that housing laws "be interpreted and implemented in a manner to afford the fullest possible weight to the interest of, and the approval and provision of, housing," the County has done the opposite. The County ignored a Potential Notice of Violation Letter sent from the Department of Housing and Community Development Department ("HCD"), the state agency that is charged with interpreting and enforcing state housing laws, warning the County that its actions to extinguish the Petitioner's vesting rights were illegal. Even several of the County's own Planning Commissioners urged County planning staff to follow the law and work in good faith with the Petitioner to process the application pursuant to the builder's remedy, but ultimately the Petitioner's appeal was denied on a narrow, 4-3 vote.

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4. In recent years, the California Legislature has sought to address what it has described as a "housing supply and affordability crisis of historic proportions" that is "hurting millions of Californians, robbing future generations of the chance to call California home, stifling economic opportunities for workers and businesses, worsening poverty and homelessness, and undermining the state's environmental and climate objectives." (Gov. Code § 65589.5(a)(2).)

5. At the core of California's affordable housing crisis is a failure to build enough housing to meet demand. California's Legislative Analyst's Office estimates the state needed to build approximately 210,000 units a year in major metropolitan areas from 1980 to 2010 to meet housing demand but only built approximately 120,000 units per year.[1] California ranks 49th out of the 50 states in existing housing units per capita.[2]

6. The Legislature has recognized that the crisis is driven, in part, "by activities and policies of many local governments that limit the approval of housing . . ." (Gov. Code § 65589.5(a)(1)(B).)

7. Santa Clara County is one of the most desirable places to live in California. Between 2015 and 2023, home values in unincorporated Santa Clara County rose, on average, by 69%.[3] Renters have been harder hit by these increases, with rental prices increasing by 60% during the same period.[4]

8. Since 1973 the County has had a policy of prohibiting development within unincorporated areas, proclaiming "that the County [would] no longer allow urban development under its jurisdiction."[5] While the County's population doubled to nearly 2 million,[6] Respondents maintained this no growth policy, refusing to provide its fair share of desperately needed housing.

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[1] Legislative Analyst's Office, California's High Housing Costs: Causes and Consequences (2015), available at https://lao.ca.gov/publications/detail/3214, at 21.
[2] McKinsey & Company, A Tool Kit to Close California's Housing Gap: 3.5 Million Homes By 2025 (2016), available at https://www.mckinsey.com/featured-insights/urbanization/closing-californias-housing-gap, at document page 6.
[3] County of Santa Clara, Sixth Cycle Housing Element, (Jan. 29, 2025), p. 53.
[4] *Id.* at 55.
[5] County of Santa Clara, Santa Clara County General Plan, Book A, (adopted Dec. 20, 1994), at B-3.
[6] United States Census Bureau, Santa Clara County, California, (2020), https://data.census.gov/profile/Santa_Clara_County,_California?g=050XX00US06085#populations-and-people.

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The County's "General Plan provides only for non-urban, low density uses in the rural unincorporated areas of the County,"[7] maintaining an average parcel size of 20 acres or more.[8]

9. The County is required to plan for and accommodate 3,125 new housing units within the sixth cycle housing element.[9] As of September 2025, Respondent has issued 331 permits, barely more than 10% of the housing needed, and has also issued permits for above moderate income units.[10] A quarter of the way through the sixth cycle and Respondents have not issued a single permit for moderate or lower income units.

10. 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.

11. As illustrated in this case, Respondents' pattern of 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 low-income housing development projects, regardless of zoning or land use designation, when a jurisdiction does not have a compliant housing element; and (iii) denying housing applicants vesting rights after the submittal of complete preliminary applications.

12. These illegal policies and practices have been applied by Respondents to avoid their obligations to approve housing projects, and to subvert the ability of applicants to benefit from the legal protections established for housing development projects under state law. Respondents routinely disapprove housing development projects administratively, under the guise

[7] County of Santa Clara, Santa Clara County General Plan, Book B, (adopted Dec. 20, 1994), at K-1.
[8] County of Santa Clara, Santa Clara County General Plan, Book A, (adopted Dec. 20, 1994), at
[9] County of Santa Clara Housing Element Update 2023-2031, (certified), at 24, https://stgenpln.blob.core.windows.net/document/2023-2031_HousingElementUpdate_Final.pdf.
[10] HCD, Annual Progress Reports – Data Dashboard and Downloads, Housing Element Implementation and APR Data Dashboard, Regional Housing Needs Allocation: Permits by Affordability, Santa Clara County, (last visited Sept. 8, 2025), https://www.hcd.ca.gov/housing-open-data-tools/apr-dashboard.

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of "incomplete application" determinations, to evade state law and judicial review. These policies and practices must stop.

PARTIES TO THE ACTION

13. Petitioner and Plaintiff The Latala Group, LLC ("Latala Group") is a California limited liability company that is, and at all relevant times was, qualified to do business in California. Latala Group is the applicant for a development on real property commonly known as, and situated at, 20202 Harry Road in unincorporated Santa Clara County, California (APN Nos. 701-32-008, 701-32-009, and 701-32-014) (the "Project Site").

14. Petitioner and Plaintiff Yes In My Back Yard ("YIMBY") is a California nonprofit public benefit corporation. YIMBY litigates on behalf of the public interest in ending the housing shortage in accordance with California law, and files this proceeding on its own behalf as well as that of its members and the public who will be affected.

15. Respondent and Defendant County of Santa Clara (the "County") is, and at all relevant times was, a political subdivision of the State of California.

16. Respondent and Defendant County of Santa Clara Planning Commission is, and at all relevant times was, a seven-member body of community representatives appointed by the Board of Supervisors. The Commission reviews, advises and acts on certain land-use and development applications and policy matters.

17. Respondent and Defendant County of Santa Clara Planning and Development Department is, and at all relevant times was, an administrative agency of the County of Santa Clara responsible for land use planning for the County, including the processing of permit applications for housing development projects.

18. Petitioner is 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 Petitioner; therefore, Petitioner will amend this Petition and Complaint when the true identities of DOES 1-25 are ascertained.

19. Petitioner is informed and believe that at all times mentioned in this Petition and Complaint, all respondents/defendants were the agents or employees of their co-

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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

20. Santa Clara County Superior Court has initial jurisdiction of the matters alleged herein pursuant to Code of Civil Procedure §§ 1094.5 and 1085, which authorize the Court to issue a writ of mandate.

21. Venue is proper in the Superior Court for the County of Santa Clara in accordance with Code of Civil Procedure §§ 392, 393(b), 394 and 395 because the entire controversy occurred in Santa Clara County and because Respondents are situated in Santa Clara County.

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

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

LEGISLATIVE BACKGROUND

Housing Accountability Act and Builder's Remedy Legislative Background

24. 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. 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. (Gov. Code § 65580, et. seq.) 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. (*Id.*)

25. In enacting the Housing Element Law, the Legislature found and declared that local governments "have a responsibility to use the powers vested in them to facilitate the improvement and development of housing to make adequate provision for the housing needs of all economic segments of the community" and that "[d]esignating and maintaining a supply of land and adequate sites suitable, feasible, and available for the development of housing sufficient

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to meet the locality's housing need for all income levels is essential to achieving the state's housing goals." (Gov. Code § 65580.)

26. Once a jurisdictions' housing element update is complete, it must be submitted to the state Department of Housing and Community Development ("HCD") for review. HCD is the state agency authorized to interpret and enforce state housing law. (Health & Saf. Code § 50152; Gov. Code § 65885(j).) HCD then makes a determination of whether the housing element is "substantially compliant" with the requirements of state housing law. (Gov. Code § 65585.03).

27. 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. 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.

28. 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. Housing projects that reserve at least 13% of the homes for low-income households are potentially eligible for the builder's remedy.[11]

29. Most pertinent here, the builder's remedy provision states that an agency is only permitted to disapprove a qualifying project if "the jurisdiction had adopted a revised housing element that was in substantial compliance with this article, ***and*** the housing development project or emergency shelter was inconsistent with both the jurisdiction's zoning ordinance and general plan land use designation as specified in any element of the general plan." (Gov. Code § 65589.5(d)(5) (emph. added.)

[11] Low-income households are defined as households earning 60% of the area median income or below. (Health & Saf. Code § 50053.)

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30. Thus, 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. Otherwise, a local government must make written findings that one of four other specifically enumerated disapproval findings.

31. The other enumerated findings to disapprove qualifying projects include: 1) the agency has a compliant housing element and has met or exceeded its regional housing needs allocation; 2) the proposed project would have an unmitigable specific, adverse impact upon the public health or safety; 3) denial is required to comply with a specific state or federal law; or 4) the project site is on land zoned for, or substantially surrounded by, agricultural or resource preservation, or does not have adequate water or wastewater facilities. (Gov. Code § 65589.5(d)(1)-(5).)

32. The legislature recently enacted AB 1893, effective January 1, 2025, with the explicit purpose to "moderniz[e] the builder's remedy to make it clear, objective, and easily usable." The bill analysis states that the Legislature's "message to local jurisdictions is clear — when it comes to housing policy, the days of shirking your responsibility to your neighbors are over." In short, AB 1893 was intended to make builder's remedy projects easier to construct.

33. The HAA recognizes that a local government can take many actions throughout the application process (or refuse to take an action) in a manner that can prevent a housing development project from getting built. The HAA therefore does not limit violations solely to final disapproval actions on housing development projects. The HAA also states a local agency shall not "condition approval" of a builder's remedy project to make the project infeasible, and defines "condition approval" to mean "imposing on the housing development project, ***or attempting to subject it to***, development standards, conditions, or policies." (Gov. Code § 65589.5(h)(12).) An agency that attempts to impose such conditions, "including design changes, lower density, or a reduction of the percentage of a lot that may be occupied by a building or structure" bears the burden to show its actions are consistent with the findings described in subdivision (d). (Gov. Code § 65589.5(i).)

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34. Another key tenet of the HAA is to demand transparency and objectivity in decision making. The term "objective" is defined as "criteria that involve no personal or subjective judgment by a public official and are uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official before submittal." (Gov. Code § 65589.5(h)(9).)

35. The HAA also employs a "reasonable person" standard, such that "if there is substantial evidence that would allow a reasonable person to conclude that the housing development project or emergency shelter is consistent, compliant, or in conformity" with an applicable standard, the project "shall be deemed consistent, compliant, and in conformity." (Gov. Code § 65589.5(h)(9).)

36. The reasonable person standard is "intentionally deferential to housing development" and "an excellent backstop to ensure that the standards a municipality are applying are indeed objective." (*California Renters Legal Advocacy & Education Fund v. City of San Mateo* (2021) 68 Cal.App.5th 820.)

37. The HAA emphatically states that a local "shall bear the burden of proof that its decision has conformed to all of the conditions specified in Section 65589.5." (Gov. Code § 65589.6.) Moreover, the Legislature and courts have made clear any ambiguities must be resolved in favor of housing project, and if an issue is "close," the policy of California is that its housing laws "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." (Gov. Code § 65589.5(a)(2)(L).)

38. The HAA includes various fines and penalties if an agency acts in bad faith with respect to a housing development project. The HAA defines "bad faith" when it engages in "an action or inaction that is frivolous, pretextual, intended to cause unnecessary delay, or entirely without merit." (Gov. Code § 65589.5(l).)

Permit Streamlining Act Legislative Background

39. The Permit Streamlining Act ("PSA"), codified at Gov. Code § 65920, et seq., is intended to expedite decisions on development projects. The PSA requires public agencies to compile lists that specify the information that will be required for a formal development

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application 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).

40. 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. Once a development application is submitted, the local government has 30 days to make a determination as to whether the application is complete. (Gov. Code § 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." (*Id*.) Any incompleteness determination "shall be limited to those items actually required on the lead agency's submittal requirement checklist." (*Id*.) Upon a resubmittal of the application 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." (*Id.*)

41. The PSA is simply designed to provide local governments with sufficient information to begin processing an application. The HAA provides a separate process for local governments to determine whether a project is inconsistent with applicable code standards, which occurs *after* an application is complete. For projects with fewer than 150 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. Code § 65589.5(j)(2).)

42. HCD has issued guidance letters that explain finding an application incomplete based on purported code-noncompliance violates both the PSA and the HAA. HCD has explained that a code-compliance comment "cannot be used as a basis for determining the completeness of the application" and that when "a local jurisdiction improperly characterizes comments as incomplete items, the jurisdiction impermissibly raises the bar to achieving a complete application,

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in violation of the PSA." (HCD Notice of Violation issued to City of La Cañada Flintridge on June 8, 2023; HCD Letter of Technical Assistance issued to City of Fillmore on August 24, 2022.)

43. The HAA and the PSA must be construed together, including because the HAA's definition of "disapprove the housing development project" includes when a jurisdiction "[d]etermines that an application for a housing development project is incomplete pursuant to subdivision (a) or (b) of Section 65943, [and] a **reasonable person would conclude** that the applicant has submitted all of the items required on the local agency's submittal requirement checklist, and the local agency upholds this determination in the final written determination on an appeal filed pursuant to subdivision (c) of Section 65943." (Gov. Code § 65589.5(h)(6)(F)(iii) (emph. added).)

44. As a result, the local agency also bears the burden to show its PSA incompleteness determination complied with the HAA's reasonable person standard. (Gov. Code § 65589.6.)

Housing Crisis Act Legislative Background

45. The Housing Crisis Act ("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." (Gov. Code § 65941.1(a).) 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. In other words, housing development projects are *only* subject to the ordinances, policies, and standards that were adopted and in effect at the time a complete preliminary application is submitted. (Gov. Code § 65589.5(o)(1).)

46. 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.

47. HCD has confirmed that the benefits afforded to an applicant as a result of the jurisdiction's noncompliance vest upon the submittal of a preliminary application. (See, HCD Letter of Technical Assistance issued to the City of Santa Monica, dated October 5, 2022.) HCD's interpretation was confirmed by the Legislature with AB 1893, which states a local

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agency may not disapprove a housing development project proposed under the builder's remedy if the applicant submitted a preliminary application when the jurisdiction did not have a substantially compliant housing element. (Gov. Code. § 65589.5(d)(6).)

48. The HCA enumerates very limited circumstances that would eliminate a housing project's vesting rights. For example, a preliminary application is no longer considered valid if the number of units or square footage of construction in the proposed project is revised by 20% or more. (Gov. Code § 65941.1(d).)

49. In addition, 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. (Gov. Code § 65941.1(e)(1).)

50. However, if the applicant submits a development application within 180 days of the preliminary application that 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.

51. The HCA does so by referencing the PSA's iterative completeness determination process. 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." (Gov. Code § 65941.1(e)(2).)

52. Thus, each time a local government determines that an application is incomplete "pursuant to Section 65943," the applicant has 90 days to respond. Because Section 65943 of the PSA limits the local government to requesting "items actually required on the lead agency's submittal requirement checklist" and is prohibited from demanding "any new information that was not stated in the initial list of items that were not complete," the iterative PSA process ensures that an applicant will achieve a complete application within just a few resubmittals – assuming that both parties are acting in good faith.

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53. The HCA and HAA must be construed together, including because the HAA's definition of "disapprove the housing development project" includes any instance in which an agency makes a written determination that a preliminary application expired or that an applicant has otherwise lost its vested rights except for the specifically enumerated reasons. (Gov. Code § 65589.5(h)(6)(H).) Thus, the local agency bears the burden to show its determination of expiration complied with the HAA. (Gov. Code § 65589.6.)

54. Particularly since the passage of AB 1893, jurisdictions within Santa Clara have invented a new interpretation of the HCA in an attempt to kill vesting rights for builder's remedy projects. Jurisdictions now take the position that an applicant only gets *one* 90-day period from the *first* completeness determination to actually achieve a complete application or else a project will lose its vesting rights, reading the PSA's iterative process completely out of the statute and in effect giving applicants just one resubmittal attempt. Jurisdictions have taken this position despite clear guidance from HCD and courts that this interpretation is wrong, and contrary to language and intent of the HCA.

55. On February 12, 2025, HCD issued a letter to the Town of Los Gatos, advising Los Gatos that "under the PSA, the 90-day period for a developer to resubmit an application after an incompleteness determination resets with each incompleteness determination." In other words, HCD confirmed that the HCA refers to, and incorporates, the PSA's iterative process whereby each time an applicant resubmits an application and receives an incompleteness determination, the applicant receives another 90 days to respond before the preliminary application expires.

56. The Town of Los Gatos' actions resulted in litigation between the Town and a housing development project applicant over application completeness, which is still pending. (*Los Gatos v. Arya Properties, et al.* (Santa Clara Sup. Ct., Case No. 25CV462276).)

57. On July 16, 2025, HCD issued a Notice of Violation to the City of Cupertino on this same issue, clearly stating that "HCD hereby notifies the City that its failure to reset the 90-day period after each incompleteness determination is in violation of state housing law.

58. The City of Cupertino's actions resulted in litigation between the Town and two housing development project applicants over application completeness, both of which are still

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pending. (*Tang, et al. v. Cupertino, et al.* (Santa Clara Sup. Ct., Case No. 25CV462924); *Chen, et al. v. Cupertino, et al.* (Santa Clara Sup. Ct., Case No. 25CV462857).)

59. The HCA's iterative process was also confirmed in a Los Angeles Superior Court ruling, which concluded "that when an applicant receives an incompleteness determination pursuant to section 65943 – not just the first incompleteness determination – an applicant has 90 days to respond." (*Janet Jha v. City of Los Angeles, et al*. (Los Angeles Sup. Ct., Case No. 23STCP03499).)

60. On November 14, 2025, the California Department of Justice Office of the Attorney General issued a Legal Alert (OAG 2025-04), directed at "All Cities, Counties, and other interested parties."

61. The Office of the Attorney General made clear that "for purposes of determining whether a housing development project application is complete, an applicant is entitled to as many 90-day review and resubmission periods as necessary and, throughout the process, retains the rights that vest up on the submission of a preliminary application under the Housing Crisis Act." The Legal Alert was issued "despite ample guidance" from HCD, to ensure "clarity and consistency in the expeditious and fair processing of housing development project applications."

62. **STATEMENT OF FACTS**

The County is Subject to the Builder's Remedy

63. For jurisdictions within the Association of Bay Area Governments, which includes the County, the sixth housing element cycle began on January 31, 2023. (Gov. Code § 65588(e)(3).) The County, however, failed to adopt a revised housing element in substantial compliance with the Housing Element Law by its January 31, 2023 statutory deadline.

64. The County eventually submitted a first draft of its housing element to HCD on May 4, 2023 – four months after the statutory deadline. However, on August 2, 2023, HCD informed the County that revisions to its housing element were necessary to comply with the Housing Element Law. The County submitted a second draft on October 19, 2023, which was again found noncompliant by HCD. The County submitted a third draft on June 28, 2024, and HCD informed the County once again that its housing element needed additional revisions to

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comply with the Housing Element Law. The County submitted a fourth draft on November 4, 2024, and HCD again informed the County that its housing element was not in substantial compliance with the Housing Element Law.

65. The County submitted a fifth draft to HCD on January 29, 2025. HCD certified the County's housing element was in substantial compliance with Housing Element Law on February 5, 2025. Because the County did not have a housing element in substantial compliance with the Housing Element Law HCD certified its housing element on February 5, 2025, the County was subject to the builder's remedy from January 31, 2023 to February 5, 2025.

Petitioner Latala Group Submits a Preliminary Application

66. On November 19, 2024, Petitioner Latala Group submitted a preliminary application for a 173-unit project, with 20% of the units set aside as affordable to lower-income households on a parcel located at 20202 Harry Road, in unincorporated Santa Clara County ("Project").

67. The Project is located on a vacant site just outside the border of the City of San Jose, surrounded by residential development and an elementary school within the City to the west and south, a storage facility in the County to the east, and undeveloped County and City land to the north (the "Project Site").

68. The preliminary application for the Project set forth all the information required by the HCA, Gov. Code § 65941.1, including, but not limited to, the Project location, a site plan and elevations, the existing uses on the Project Site, the proposed land use by number of units, the square footage of residential development, and the proposed number of parking spaces. Thus, the Latala Group obtained vested rights in the ordinances, policies, and standards adopted and in effect as of the date of the complete preliminary application submittal.

69. At the time of Latala Group's November 19, 2024 preliminary application submittal, the County was not in substantial compliance with the Housing Element Law, which the County did not achieve until February 5, 2025.

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70. Latala Group proposed an affordable housing project that reserved 20% of the units for low-income households, and thus the Project qualifies for the protections of the builder's remedy. (Gov. Code § 65589.5(h)(3).)

71. 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. The Project details in the development application remained substantially the same as the preliminary application, and the number of units and square footage of construction were not revised by more than 20%. Thus, the preliminary application remained valid, and the Project retained vested rights in the builder's remedy that were obtained through the preliminary application submittal. (Gov. Code § 65941.1(e)(1).)

The County's Incompleteness Determination and Project Resubmittal

72. Thirty days later, the County found the application to be incomplete and issued an incompleteness letter ("First Incompleteness Letter"). The letter identified 38 missing items, with items identified by the Planning Department, Engineering Department, Roads and Airport Department, Geology Department, Fire Marshal's Office, and Environmental Health Department. The First Incompleteness Letter stated that the Petitioner 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.

73. The County's First Incompleteness Letter requested information not required for completeness by the County's SB 330 – Housing Crisis Act Planning Submittal Checklist ("County Checklist"). Although the County's letter categorized the comments as related to application completeness, many of the comments regarded an analysis of the Project's consistency with zoning code and subdivision code requirements rather than "missing" information.

74. After receiving the First Incompleteness Letter, Latala Group met with County representatives from the various departments who had provided comments. The applicant discussed each and every item identified in the letter with County staff. Latala Group discussed how it intended to address the items with County staff, and went to work modifying the submittal

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to ensure that all items were addressed.

75. On May 29, 2025, Petitioner resubmitted the application in response to the County's First Incompleteness Letter. This submittal was within the 90-day timeline (i.e., by June 11, 2025) to respond to an incompleteness determination to maintain vesting rights. (Gov. Code § 65941.1(e)(2).)

76. The resubmittal included a response to all 38 items listed in the County's First Incompleteness Letter, including Item #11. Item #11 stated: "Almaden Expwy extension is designated as an Official Plan Line (OPL) on OPL maps, consisting of a 134-foot full street that transverses through the property from Almaden Expwy to McKean. Refer to OPL Book No. 4, Pg 46-57. Show the existing limits of the Almaden Expressway extension OPL. A curvilinear dedication to public right-of-way must be shown." Item #14 also addressed the Almaden Expressway extension OPL, stating "Show all existing and proposed improvements on the improvement plans that may intercept or be in immediate proximity to, or be within, the Almaden Expwy extension OPL area.

77. Official Plan Lines are adopted by the Board of Supervisors on official County Maps, and are defined as "boundaries and limits of a *planned* right-of-way, including the *future* right-of-way of an existing street *as it is proposed to be widened* and including all lands necessary for the building, widening or maintenance of any road, street, highway, or any other type of public way, which planned right-of-way is based on the General Plan of the County of Santa Clara." (SCMC § C12-703(b).) In other words, OPLs show where future proposed streets will be located.

78. Latala Group had met with the staff from the Roads and Airport Department via zoom on April 10, 2025 to discuss, among other things, Item #11 and Item #14. During this discussion, Latala Group explained that the Almaden Expressway extension OPL was no longer going to be constructed, and that dedicating this land to the public would significantly impact the Project. County staff responded that regardless of whether the Almaden Expressway extension would ever be constructed, the OPL was still on the County's maps and the County code required all areas within the OPL to be dedicated as a public right-of-way ("ROW"). County staff made

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clear that the intent of Item #11 and Item #14 was to require the applicant to redesign the Project to include a public ROW dedication.

79. Petitioner's resubmittal included a response to the County's request related to the Almaden Expressway OPL and Item #11's demand that a "curvilinear dedication to public right-of-way must be shown." Because dedication of a public ROW consistent with the Almaden Expwy OPL would result in a significant reduction in the number of housing units and reduction of the percentage of the lot that may be occupied by a building in violation of HAA subd. (i), Petitioner responded to Item #11 and Item #14 by requesting a waiver to the ROW dedication requirement under the State Density Bonus Law, explaining that Respondent could not legally require compliance with the OPL. Petitioner further explained that the Almaden Expressway expansion project had been abandoned, and there is no longer a rational or legal basis to require dedication and/or avoidance of development within the OPL area.

80. In a nutshell, Petitioner explained that the Project did not propose to include an extension of the Almaden Expressway through the Project Site, and therefore Petitioner did not include the Almaden Expressway OPL on the proposed Project Plans.

81. Twenty-eight days later, on June 26, 2025, the County provided Petitioner with another "incompleteness" determination letter ("Second Incompleteness Letter"). The Second Incompleteness Letter went from 38 purportedly "missing" items down to just two – both of which were related to the Almaden Expressway OPL.

82. Specifically, Item #1 in the Second Incompleteness Letter reiterated Item #11 from the First Incompleteness Letter *almost* verbatim, with one critical difference. While #11 in the First Incompleteness Letter demanded at the end of the description of the Almaden Expressway OPL that a "curvilinear dedication to public right-of-way must be shown," this demand for a dedication was dropped from Item #1 in the Second Incompleteness Letter.

83. Respondent acknowledged Petitioner's State Density Bonus Law waiver request and stated that Respondent's "letter does not represent a determination on this request under the State Density Bonus Law; rather, the items above are requirements from the County's application checklist that are necessary for processing this application, including but not limited to the request

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for a density bonus."

84. The County's Second Incompleteness Letter also claimed that "[p]ursuant to Government Code section 65941.1(e)(2), preliminary applications PLN24-119-PRE and PLN-24-230- PRE have now expired and have no further force and effect. This determination of application incompleteness is appealable to the County Planning Commission pursuant to Zoning Ordinance § 5.20.080."

85. Despite the fact that the resubmission 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, the County took the position that Petitioner's vesting rights had expired. And because the County had subsequently achieved substantial compliance with the Housing Element Law, Petitioner lost its right to pursue a builder's remedy project.

86. Because the Second Incompleteness Letter was sent beyond 90 days after the First Incompleteness Letter was sent, Petitioner did not have another opportunity to resubmit the application in response to the Second Incompleteness Letter.

87. In subsequent conversations with County staff, staff backtracked on its previous explanation and now stated that the County was not requesting that the project actually include a ROW dedication for the Almaden Expressway extension (despite the First Incompleteness Letter demanding that a "curvilinear dedication to public right-of-way must be shown" and County staff's prior explanation of this item during meetings with Petitioner).

88. Instead, the County now stated it was merely asking for the Almaden Expressway OPL as adopted by the Board of Supervisors on the County's Maps to be drawn onto the site plans, regardless of whether the Project intended to propose an Almaden Expressway extension as part of the Project, just so the County could understand where the County's own OPL is located.

The County Denies Petitioner Latala Group's PSA Appeal

89. 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. The appeal set forth a detailed explanation why the County's refusal to recognize the Project's vesting rights was a plainly erroneous and conflicts with the plain language and

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intent of state housing law. Petitioner's appeal explained that pursuant to the PSA an applicant has multiple 90-day opportunities to respond to an agency's determination of incompleteness.

90. The Petitioner's appeal also explained that Petitioner did not understand the information that the County was seeking in relation to the Almaden Expressway OPL, explaining again that the County could not legally require dedication of an Almaden Expressway extension as part of the Project. The Applicant nonetheless provided an updated plan set identifying the County's adopted Almaden Expressway OPL that was not being proposed as part of the Project.

91. With the appeal, Petitioner Latala Group nonetheless resubmitted the application with the County's OPL superimposed onto the Project plans. The updated plan set identified the County's adopted Almaden Expressway OPL that was not being proposed as part of the Project.

92. The County did not respond to Latala Group's resubmittal of its plans. County staff tacitly admitted that the July 10, 2025 resubmitted plans were accepted as complete in the response to the appeal, acknowledging the resubmitted plans but stating that the question before the Commission was whether the application as resubmitted on May 29, 2025 was complete. However, the County never made a formal completeness determination nor did the County respond to the resubmittal in any way.

93. 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 City's determination that the preliminary application expired violated the HAA. (AR 34-35.)

94. YIMBY explained that if a local agency could defeat an applicant's vesting rights and stall application simply by issuing multiple repetitive incompleteness determinations, vesting rights would be pointless. YIMBY explained that if the County found that the application was incomplete and the vesting rights expired, this would constitute an unlawful disapproval of the Project under the HAA.

95. YIMBY warned the County that YIMBY would be forced to file a lawsuit if the County failed recognize the Project's vesting rights and follow the law.

96. One day before the hearing on Petitioner's appeal, HCD sent the County a Notice of Potential Violation Letter – repeating HCD's position articulated in the letters to Los Gatos and

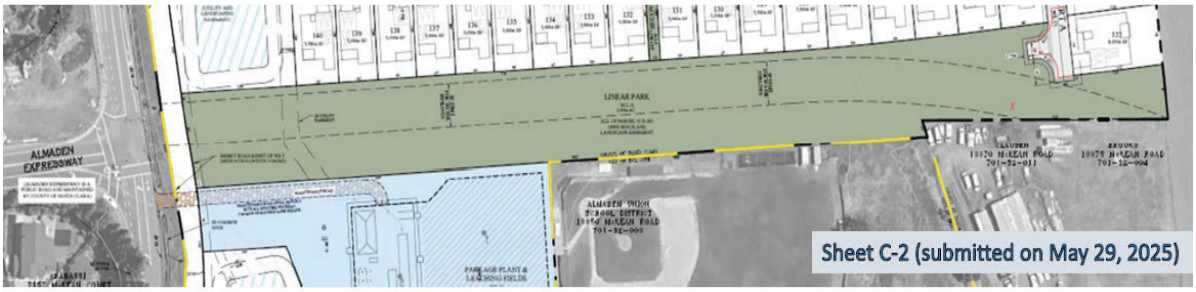
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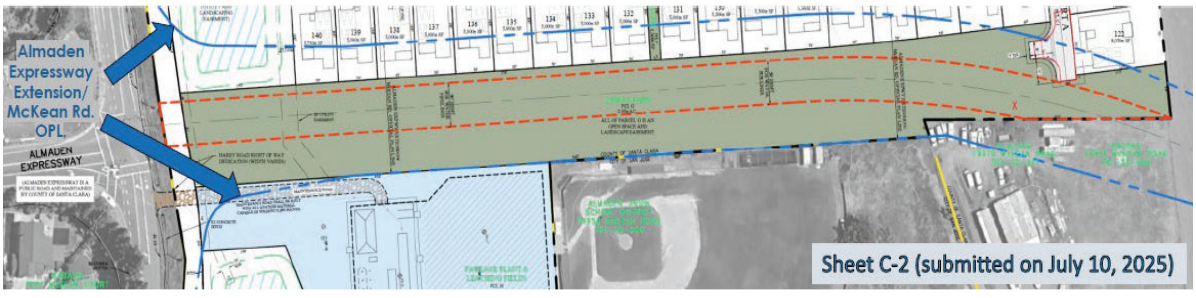
Cupertino. HCD's Notice of Violation informed the County that its interpretation of the PSA was wrong and "its failure to reset the 90-day period after each incompleteness determination would be in violation of state housing law."

97. The Planning Commission heard Petitioner's appeal on August 28, 2025. The hearing agenda recommended denial of the appeal, in part because the County's determination that the preliminary application had expired "is not an incomplete item and is not within the scope of the Planning Commission's review."

98. At the meeting, planning staff repeated the County's position that the only question before the Planning commission is whether the application as resubmitted on May 29, 2025, was complete.

99. Planning staff acknowledged that, once Petitioner understood the information the County was seeking, Petitioner had subsequently achieved a complete application by drawing the location of the County's own adopted OPL lines on one page of the 254-page resubmittal. As shown below, adding the blue line to show a County-planned road extension that the Petitioner has absolutely no intention of proposing as part of the Project, is (in the County's opinion) the reason why the Project lost its vesting rights and the protections of the builder's remedy.





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100. At the hearing, Chairperson Rauser asked whether Petitioner had an opportunity to respond to the Second Incompleteness Letter, which "changed the ask" from the First Incompleteness Letter. County staff erroneously responded that both letters "used the same language." Chuckling, Chairperson Rauser stated, "I will disagree on that."

101. Commissioner Cohen asked whether the Planning Commissioners could "consider good faith effort" in determining completeness, or whether the Commissioner must only consider staff's "strict interpretation." County staff erroneously responded that there is no standard of review for determining completeness, ignoring the HAA's reasonable person standard, but stated that there is room for Commissioners to interpret what was being asked by the County and whether the resubmittal met that requirement.

102. Multiple Commissioners bemoaned that they could not address the applicant's vesting rights. In response to a motion from Commissioner Belska to allow resubmittal without jeopardizing its vested rights, County staff informed Commissioners that "[t]he Planning Commission does not have the authority to take that action."

103. After repeatedly being informed that the Commissioners could only consider application completeness, the Planning Commission ultimately voted 4-3 to deny the appeal.

104. The fact that three Commissioners voted to uphold the appeal means that three Commissioners found that Petitioner *did* submit all the items necessary for the application to be accepted as complete.

105. On information and belief, Petitioners believe that the County considers all seven of its Planning Commissioners to be reasonable people – including the three Commissioners who voted to find the application complete.

106. The following day the County confirmed that the Planning Commission's action was final and non-appealable.

107. The County's interpretation of the HCA contradicts HCD's multiple guidance letters on this issue, as well as a recent superior court decision, and a formal legal opinion from the Office of the Attorney General. (¶¶ 55-61.) The County ignored this clear precedent, and the language and intent of the HCA.

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108. County refused to acknowledge that it had modified is incompleteness determination, dropping its request for the Project to include a public ROW as part of the Project in its Second Incompleteness Letter, and then refused to apply a reasonable person standard to determine whether the Petitioner's resubmittal was complete.

109. The County's motivation behind its bad-faith denial of the appeal and attempt to extinguish the applicant's vesting rights is clear – prevent the Project from benefiting from the protections of the builder's remedy.

110. On information and belief, the County only began to impose this interpretation of the HCA *after* the County achieved compliance with the Housing Element Law to prevent builder's remedy projects from moving forward.

111. Petitioners have no choice but to seek legal action against the County after its bad faith denial of its appeal of the County's June 26, 2025 Incompleteness Letter at its August 28, 2025 Planning Commission meeting and unlawful extinguishment of the Project's vesting rights. Petitioner Latala Group provided the County with a Notice of Intent to File Litigation on September 8, 2025, to which the County did not respond. This petition followed.

FIRST CAUSE OF ACTION

Writ of Mandate - CCP § 1094.5 and/or § 1085; Violation of Housing Crisis Act ("HCA"), Gov. Code § 65941.1

(Against All Respondents)

112. Petitioners incorporate herein by reference the allegations contained in Paragraphs 1 through 111 of this Petition and Complaint.

113. Petitioners and the public generally, 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 HCA are allowed to be enforced against Petitioners. Petitioners' interests include: (1) ensuring that Respondents comply with state laws requiring that they recognize validly submitted preliminary applications for housing development projects to address the housing needs of California residents and do not unlawfully find such preliminary applications expired except as specifically enumerated in the

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law; (2) ensuring that Respondents' actions are in conformity with the requirements of state law; and (3) 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, which Respondents have failed to perform.

114. The HCA's preliminary application process confirms that a preliminary application remains valid so long as an applicant responds to an incompleteness determination within 90 days after receiving the determination. Ignoring HCD's Notice of Potential Violation Letter, Respondents unlawfully determined that Petitioner Latala Group's preliminary application expired, despite the fact that Petitioner Latala Group responded to Respondents' incompleteness determinations within 90 days to ensure that the preliminary application remained valid.

115. In establishing a 90-day response period for housing development applicants, the Legislature mapped out an iterative process as confirmed by HCD. The County's interpretation of the HCA ignores Gov. Code § 65941.1's express reference to the iterative process established by the PSA's completeness review, and is contrary to the Legislature's intent in amending the PSA to provide certainty in the review of a housing development project's application.

116. The County's erroneous interpretation of the HCA will encourage cities to unlawfully raise the bar to achieve complete development applications in attempting to prematurely cut off vesting rights, in contravention of the PSA's goal of expediting the completeness of applications. The County's interpretation transforms the PSA's iterative, collaborative completeness process into a high stake, adversarial process that encourages local governments to find a reason, any reason, to deem an application incomplete no matter how miniscule. This in turn will lead (and has already led) to a proliferation of litigation over application completeness, turning courts into the arbiters of whether project plans are complete. This absurd result could not possibly by the Legislature's intent.

117. 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

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immediate stay or other appropriate relief, including an injunction, declaration, and/or order, commanding Respondents to perform their legal duties under the PSA and HCA, including with respect to the preliminary application vesting rights and development application for the proposed Project.

SECOND CAUSE OF ACTION

Violation of Permit Streamlining Act ("PSA"), Gov. Code § 65920 et seq.

(Against All Respondents)

118. Petitioners incorporate herein by reference the allegations contained in Paragraphs 1 through 117 of this Petition and Complaint.

119. Petitioners 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 is allowed to be enforced against Petitioners. Petitioners' interests include: (1) 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; (2) ensuring that Respondents' actions are in conformity with the requirements of state law; and (3) having those requirements properly executed and their public duties enforced. Petitioner has a clear, present, and legal right to Respondents' performance of their legal duties as described herein, which Respondents have failed to perform.

120. The PSA governs the processing procedures for all development project applications statewide, including housing development projects. (Gov. Code § 65940(d).) After receiving a development application, a local agency has 30 days to determine whether the application is complete. (Gov. Code § 65943(a).) If the local agency determines that the application is incomplete, it must "provide the applicant with an exhaustive list of items that were not complete" and provide a "thorough description of the specific information needed to complete the application." (Gov. Code § 65943(a).) "In any subsequent review of the application[,]" an agency is prohibited from requesting "the applicant to provide any new information that was not stated in the initial list of items that were not complete." (*Id.*) This process is informational,

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meaning that the process is meant to gain information about the Project that is proposed, and is not substantive, meaning that the PSA process cannot be used to force an applicant to make changes to the Project.

121. Both Incompleteness Letters included comments regarding the Project's consistency with various County code standards that were inaccurately identified as "incomplete" items, in conflict with the above PSA provision. When a local jurisdiction improperly characterizes a determination of project consistency as incomplete items, as the County did here, the jurisdiction impermissibly demands more information than necessary to achieve a complete application in violation of the PSA. If the County refuses to process an application based on a substantive decision regarding project consistency, this PSA violation is an undue constraint on the development of housing.

122. The County's First Incompleteness Letter violated the PSA by requesting items that were not on the County's Submittal Checklist, including demands for the Project to include a public ROW dedication as required by the County's OPL Maps. This item was not a "missing" piece of information, this was a demand to modify the Project to comply with the County's code.

123. However, when Petitioner Latala Group attempted to comply with the County's demand by requesting a waiver to the dedication under the state Density Bonus Law, the County moved the goalpost. Respondents' Second Incompleteness Letter removed its illegal demand for a right of way dedication, an explicit acknowledgement that the dedication was not legally required of the Project. The County later clarified that it was only requesting that the OPL lines be shown on the Project plans. Not only was this request different from the First Incompleteness Letter's "exhaustive list of items that were not complete," but demonstrates that the County failed to provide a "thorough description of the specific information needed to complete the application" in violation of the PSA. (Gov. Code § 65943.)

124. Having provided all the information requested by the County that is legally applicable to the Project, the County was obligated to accept the application that was resubmitted on May 29, 2025 as complete. The County failed to respond to Petitioner Latala Group's July 10, 2025 resubmittal at all, and due to that failure at a minimum the application was deemed complete

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by operation of law on August 10, 2025. The County's refusal to recognize the application as complete is in violation of the PSA.

125. 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.

THIRD CAUSE OF ACTION

Writ of Mandate - CCP § 1094.5 and/or § 1085; Violation of Housing Accountability Act (HAA), Gov. Code § 65589.5

(Against All Respondents)

126. Petitioner incorporates herein by reference the allegations contained in Paragraphs 1 through 125 of this Petition and Complaint.

127. Petitioner asserts that Respondents' actions constitute an unlawful disapproval of the Project because Respondents abused their discretion by not proceeding in the manner required by law, issuing a decision unsupported by the findings, and issuing findings that are unsupported by the evidence.

128. Petitioner Latala Group, 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 HAA are allowed to be enforced against Petitioner. Petitioner's interests include: (1) ensuring that Respondents comply with state laws requiring that they approve housing development projects expeditiously and at the density proposed by the developer, in order to address the housing needs of California residents; (2) ensuring that Respondents' actions are in conformity with the requirements of state law; and (3) having those requirements properly executed and their public

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duties enforced. Petitioner has a clear, present, and legal right to Respondents' performance of their legal duties as described herein, which Respondents have failed to perform.

129. The HAA limits the ability of local governments to disapprove or conditionally approve housing development projects for very low, low-, or moderate-income households (defined as projects with at least 13% of the units reserved for low-income households), even when such projects are inconsistent with zoning and general plan standards, when a jurisdiction is not in substantial compliance with the Housing Element Law. (Gov. Code §§ 65589.5(d), (h)(3).)

130. The HAA defines "disapprove" to include any instance in which an agency erroneously determines a preliminary application has expired, makes an improper incompleteness determination, or engages in a course of conduct that effectively disapproves a project without taking a final action. (Gov. Code § 65589.5(h)(6).)

131. The HAA's definition of "disapprove" includes when a jurisdiction "[d]etermines that an application for a housing development project is incomplete pursuant to subdivision (a) or (b) of Section 65943, [and] a **reasonable person would conclude** that the applicant has submitted all of the items required on the local agency's submittal requirement checklist, and the local agency upholds this determination in the final written determination on an appeal filed pursuant to subdivision (c) of Section 65943." (emph. added.) (Gov. Code § 65589.5(h)(6)(F)(iii).)

132. The County's determination that the Project's application remains incomplete constitutes an unlawful disapproval of the Project. Three of seven Planning Commissioners concluded that the application was complete, which is incontrovertible evidence that a reasonable person would conclude the application was complete.

133. The also defines "disapprove the housing development project" to include any instance in which an agency makes a written determination that a preliminary application expired or that an applicant has otherwise lost its vested rights except for the specifically enumerated reasons. (Gov. Code § 65589.5(h)(6)(H).)

134. The County's determination that the Project's preliminary application expired constitutes an unlawful disapproval of the Project. The County provided a written determination

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the preliminary application had expired even though Petitioner responded to each of the County's incompleteness determinations within 90 days as required to maintain vesting rights. The County found that the June 10, 2025 resubmittal, submitted just two weeks after the County's Second Incompleteness Letter, was complete – locking in vesting rights for the life of the application. The County's determination that vesting rights were lost is an unlawful disapproval of the Project.

135. Moreover, the HAA states that an applicant may bring an action to enforce the HAA if "the local agency, in violation of subdivision (o), required *or attempted to require* a housing development project to comply with an ordinance, policy, or standard not adopted and in effect when a preliminary application was submitted." (Gov. Code § 65589.5(k)(1)(A)(i)(III).)

136. The HAA further states a local agency shall not "condition approval" of a builder's remedy project to make the project infeasible, and defines "condition approval" to mean "imposing on the housing development project, *or attempting to subject it to, development standards, conditions, or policies*." (Gov. Code § 65589.5(h)(12).) An agency that attempts to impose such conditions, "including design changes, lower density, or a reduction of the percentage of a lot that may be occupied by a building or structure" bears the burden to show that it made the required findings described in HAA subd. (d). (Gov. Code § 65589.5(i).)

137. The County violated this provision in two ways. First, the County attempted to impose a ROW dedication requirement that would result in a reduction in density and have a substantial adverse effect on the feasibility of the Project by refusing to accept the application as complete unless the Project plans included a proposed dedication. Second, the County is attempting to impose all of its zoning and general plan standards that cannot be imposed on a builder's remedy project by refusing to recognize the Project's vesting rights.

138. The County's actions were done without the requisite findings, nor did the County support such findings by a preponderance of the evidence in the record. HAA builder's remedy projects can only be disapproved or conditionally approved for the following reasons: 1) the local agency has a compliant housing element and its jurisdiction has met or exceeded its regional housing needs allocation; 2) the proposed project would have an unmitigable "specific, adverse impact upon the public health or safety"; 3) denial is required to comply with "specific state or

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federal law"; and 4) the proposed project site is on land zoned for agricultural or resource preservation, or does not have adequate water or wastewater facilities. (Gov. Code § 65589.5(d)(1)-(4).) The County did not even attempt to make such findings, nor could it, as such findings cannot possibly be made.

139. Further, the HAA requires a local government to provide a written determination regarding whether a project with more than 150 units complies with applicable, objective general plan, zoning, and subdivision standards and criteria, including design review standards, within 60 days after an application is deemed complete, or else the project is deemed consistent with all applicable standards by operation of law.

140. The County failed to respond to Petitioner Latala Group's July 10, 2025 resubmittal at all, and due to that failure the application was deemed complete by operation of law on August 10, 2025. The County further failed to provide a written compliance determination within 60 days after the application was deemed complete (i.e., by October 9, 2025), and therefore the Project is deemed compliant by operation of law. As a result, the County may only disapprove the project upon a finding that the Project will cause 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. Code § 65589.5(j)(1).)

141. The County's erroneous actions constitute a bad-faith course of conduct designed to defeat the builder's remedy in a manner that the Legislature clearly did not intend, particularly considering the Legislature's enactment of AB 1893 that was specifically meant to make the construction of builder's remedy projects easier. The County took this action despite clear guidance from HCD and courts that its actions were unlawful.

142. The County's refusal to process the application, and its denial of the appeal, was in "bad faith" because these actions were without any legal support, frivolous, pretextual, intended to cause unnecessary delay, and entirely without merit. (Gov. Code § 65589.5(l).)

143. 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 §

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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.

FOURTH CAUSE OF ACTION

Declaratory Relief - Code Civ. Proc. § 1060

(Against All Respondents)

144. Petitioners incorporate herein by reference the allegations contained in Paragraphs 1 through 143 of this Petition and Complaint.

145. 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, patterns, and practices which operate to avoid obligations established by state law, including by disregarding the vesting rights of 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), SB 330/Housing Crisis Act (Gov. Code § 65941.1), and the Permit Streamlining Act (Gov. Code § 65943).

146. Respondents' unlawful determinations that preliminary applications have expired after a single 90-day period, regardless of whether an applicant timely resubmitted a development project application in response to Respondents' incompleteness determinations, is a clear violation of Respondents' legal duties under state housing law. Respondents' policy, pattern, and practice regarding the expiration of preliminary applications unlawfully deprives applicants of vesting rights for reasons other than those described in Gov. Code § 65941.1, which constitutes a disapproval of housing development projects as defined by the HAA. (Gov. Code § 65589.5(h)(6)(H).)

147. Respondents have a policy, pattern, and practice of disregarding the vesting rights of preliminary applications and associated housing development project applications under state

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law. 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, including preliminary application file numbers PLN23-184-PRE; PLN24-132-PRE; PLN24-196-PRE; PLN24-242-PRE; PLN24-254-PRE; and PLN24-266-PRE. In each instance, Respondents have sent a letter to the applicant explaining Respondents' unlawful policy.

148. Petitioners further contend that Respondents' actions are intended to evade their legal duties and deny housing development project applicants' legal rights under these state laws. Petitioners are informed and believe, and on that basis alleges, that Respondents contend in all respects to the contrary. A judicial determination and declaration the legal rights of the respective parties, and of the resulting legal duties of Respondents with respect to housing development projects, is therefore necessary and appropriate.

WHEREFORE, Petitioner demands judgment against Respondents for the following:

1. For a peremptory or alternative Writ of Mandate or other injunctive relief:
   a. Directing Respondents to set aside the unlawful incompleteness determination and find that the application is complete.
   b. Directing Respondents review and process applications pursuant to the PSA's provisions, including refraining from refusing to process development applications based on erroneous assertions of incompleteness.
   c. Directing Respondents to comply with the HAA, including refraining from refusing to process the application for the Project based on zoning and General Plan inconsistency, incompatibility with inapplicable standards and criteria, or inconsistency with ordinances, policies, and standards that were not in effect at the time the complete preliminary application for the Project was submitted.
   d. Enjoining Respondents from a course of conduct undertaken for the improper purpose of harassing, causing unnecessary delay or needless increases in the cost of the Project.

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e. Enjoining Respondents from taking any further unlawful acts to preclude the Project.

f. For fines to be assessed as warranted pursuant to Gov. Code § 65589.5(k)(1)(B) if Respondents fail to timely comply with the Court's order compelling compliance with the Housing Accountability Act.

2. For a temporary restraining order, stay, preliminary injunction or other preliminary relief compelling Respondents to comply with state housing law and to allow the Project's application to proceed.

3. For an order or judgment compelling Respondents to comply with applicable law, including but not limited to an order enjoining Respondents to set aside their unlawful acts to preclude the Project, and to take appropriate action to allow the Project to proceed.

4. For an order or judgment declaring that Respondents' actions constituted bad faith as defined by Gov. Code § 65589.5(k)(1)(A)(ii) and directing Respondents to approve the Project within 60 days, and for any fines to be increased by a factor of five pursuant to Gov. Code § 65589.5(l) if Respondents fail to timely comply.

5. For costs of suit as allowed by law, including attorneys' fees pursuant to Government Code section 65589.5(k)(1)(A)(ii), Code of Civil Procedure section 1021.5, and Government Code section 800(a).

6. For fines to be assessed as warranted pursuant to Government Code section 65589.5(k)(1)(B) & (l).

7. For declaratory judgment pursuant to Code of Civil Procedure section 1060.

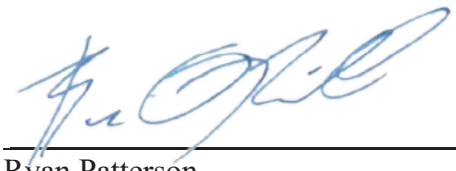
8. For any other relief that the Court deems just and proper.

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Dated: November 25, 2025

Respectfully Submitted,

PATTERSON & O'NEILL, PC



Ryan Patterson
Brian O'Neill
Attorneys for Petitioner and Plaintiff,
THE LATALA GROUP, LLC and
YES IN MY BACK YARD

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VERIFICATION

I, Paul Latala, declare as follows:

1. I am a natural person and a resident of the State of California. I am authorized to verify this VERIFIED FIRST AMENDED PETITION FOR WRIT OF MANDATE, PROHIBITION, OR OTHER EXTRAORDINARY RELIEF; COMPLAINT FOR DECLARATORY RELIEF as the manager of The Latala Group, LLC.

2. I have read the foregoing VERIFIED FIRST AMENDED PETITION FOR WRIT OF MANDATE, PROHIBITION, OR OTHER EXTRAORDINARY RELIEF; COMPLAINT FOR DECLARATORY RELIEF and know its contents. The matters stated in the VERIFIED PETITION FOR WRIT OF MANDATE, PROHIBITION, OR OTHER EXTRAORDINARY RELIEF; COMPLAINT FOR DECLARATORY RELIEF are true of my own knowledge from having reviewed the Planning File for ASA-2024-009 that denied the appeal and upheld the Planning Department's incompleteness determination for the proposed housing development project at 20202 Harry Road, unincorporated Santa Clara, CA (APN Nos. 701-32-008, 701-32-009, and 701-32-014), except those matters stated upon 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 25, 2025.

Paul Latala

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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 the founder and executive director of petitioner and plaintiff Yes In My Back Yard ("YIMBY"). I am authorized to verify this VERIFIED FIRST AMENDED PETITION FOR WRIT OF MANDATE, PROHIBITION, OR OTHER EXTRAORDINARY RELIEF; COMPLAINT FOR DECLARATORY RELIEF on behalf of myself and YIMBY.

2. I have read the foregoing VERIFIED FIRST AMENDED PETITION FOR WRIT OF MANDATE, PROHIBITION, OR OTHER EXTRAORDINARY RELIEF; COMPLAINT FOR DECLARATORY RELIEF and know its contents. The matters stated in the VERIFIED PETITION FOR WRIT OF MANDATE, PROHIBITION, OR OTHER EXTRAORDINARY RELIEF; COMPLAINT FOR DECLARATORY RELIEF are true of my own knowledge from having reviewed the Planning File for ASA-2024-009 that denied the appeal and upheld the Planning Department's incompleteness determination for the proposed housing development project at 20202 Harry Road, unincorporated Santa Clara, CA (APN Nos. 701-32-008, 701-32-009, and 701-32-014), except those matters stated upon 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 25, 2025.

Sonja Trauss