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City of La Cañada Flintridge  
13 Community Development  
Department; and the City of La  
14 Cañada Flintridge City Council

15 SUPERIOR COURT OF THE STATE OF CALIFORNIA

16 FOR THE COUNTY OF LOS ANGELES

17 600 FOOTHILL OWNER, LP, a California  
limited partnership,

18 Petitioner,

19 v.

20 CITY OF LA CAÑADA FLINTRIDGE; THE  
21 CITY OF LA CAÑADA FLINTRIDGE  
COMMUNITY DEVELOPMENT  
22 DEPARTMENT; AND THE CITY OF LA  
CAÑADA FLINTRIDGE CITY COUNCIL,  
23 AND DOES 1-50,

24 Respondents.

Case No. 23STCP02575

Honorable Mitchell L. Beckloff  
Department: 86

**RESPONDENTS’ NOTICE OF MOTION  
AND SPECIAL MOTION TO STRIKE  
UNDER CCP § 425.16 PETITIONER 600  
FOOTHILL OWNER, LP’S VERIFIED  
PETITION’S NINTH CAUSE OF  
ACTION; MEMORANDUM OF POINTS  
AND AUTHORITIES IN SUPPORT  
THEREOF**

*[Notice of Motion; Decl. of Peter Sheridan in  
support thereof Filed Concurrently herewith]*

Date: January 17, 2024

Time: 9:30 a.m.

Dept.: 86

Reservation: Reserved with Clerk

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**TO PETITIONER AND THEIR ATTORNEYS OF RECORD HEREIN:**

**PLEASE TAKE NOTICE** that on January 17, 2024, at 9:30 a.m., or as soon thereafter as counsel may be heard in Department 86 of the Superior Court of the State of California for the County of Los Angeles, located at 111 North Hill Street, Los Angeles, CA 90012, The Honorable Mitchell L. Beckloff presiding, Respondents City of La Cañada Flintridge; The City of La Cañada Flintridge Community Development Department; and The City of La Cañada Flintridge City Council (collectively “Respondents”) will and do hereby move for a special Motion to Strike to Petitioner’s 600 Foothill Owner, LP (“Petitioner”) Verified Petition for Writ of Mandate and Complaint for Declaratory and Injunctive Relief (the “Petition”) and the Ninth Cause of Action alleged therein as follows: Petitioner’s Ninth Cause of Action arises from the City Council’s exercise of its constitutional and statutory free speech rights in connection with a public issue; and, Petitioner cannot establish that it will prevail on the Ninth Cause of Action. Petitioner’s Ninth Cause of Action arises from conduct protected by California’s anti-SLAPP statute, California Code of Civil Procedure Section 425.16, and should be stricken pursuant to this statute.

**PLEASE TAKE FURTHER NOTICE** that pursuant to California Code of Civil Procedure section 425.16(c)(1), Defendants will seek the recovery of all their attorneys’ fees and costs associated with this Motion. This Motion will be based on this Notice of Motion, the attached memorandum of points and authorities, the notice of motion and memorandum of points and authorities filed in support of, and evidence as may be presented to the Court at or before the date of the hearing on this Motion.

DATED: August 22, 2023

GLASER WEIL FINK HOWARD  
JORDAN & SHAPIRO LLP  
ALESHIRE & WYNDER, LLP

By: 

PETER C. SHERIDAN  
CHRISTOPHER L. DACUS  
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Flintridge; The City of La Cañada Flintridge  
Community Development  
Department; and the City of La  
Cañada Flintridge City Council*

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**MEMORANDUM OF POINTS AND AUTHORITIES**

**I. INTRODUCTION**

Petitioner 600 Foothill Owner, LP’s (“Petitioner”) Petition for Writ of Mandate and Complaint for Declaratory and Injunctive Relief (the “Petition”) runs afoul of California’s Anti-SLAPP law because it predicates its Ninth Cause of Action on the protected speech and political activities of each member of Defendant La Cañada Flintridge’s (the “City”) City Council (the “City Council”).

Count Nine of the Petition alleges a violation of the right to a fair adjudicatory hearing based upon protected comments and communications by each member of the City Council. The purported indicia of “bias” are not biased statements against Petitioner, but are literally expressed concerns about the controversial Housing Accountability Act (the “HAA”) and its often contradictory interaction with related laws. In short, Petitioner is suing the City Council and its members for questioning laws that prioritize coercion (or at least confusion) by distant officials in Sacramento over the voluntary cooperation of city residents vested in their elected local representatives.

Reasonable minds may differ as to the wisdom of California’s complex scheme of interrelated housing and environmental laws—but according to Petitioner, no dissent is allowed by the City Council, even in the performance of their duties as elected representatives of their local constituents. Plaintiff’s entire Ninth Cause of Action is premised on the incorrect notion that the City Council’s protected concerns regarding the impact of myriad laws on their city or critiques of existing law render the City Council members “biased” against Petitioner. Petitioner also alleges protected speech regarding entirely irrelevant prior proposed development projects as the basis for the Ninth Cause of Action.

For example, the HAA and its related laws achieve part of their objectives by giving a loophole to adventurous (for-profit) developers, like Petitioner, so long as they make certain concessions to California’s most recent legislative focus, namely allocating a set percentage of their developments to “affordable housing.” The “reward” to a for-profit developer like Petitioner for finding a city that is allegedly non-compliant with the Housing Element Laws is, ironically, being excused from having to comply with general plan and zoning ordinances, the key laws used by cities to regulate, allow, and properly condition land use and for-profit development. One component of this scheme is the

1 “Builder’s Remedy” that Plaintiff, no doubt selflessly, seeks to use to avoid more costly routes to  
 2 investing in real estate development and to eschew complete City review or even cooperative  
 3 engagement with the citizens. Plaintiff’s Ninth Cause of Action is predicated on the allegation that  
 4 each City Council member dared at different times to express reservations about the HAA, the  
 5 Builder’s Remedy embodied in that law, and the burdens and requirements of the State’s Housing  
 6 Element Law upon the City. This is the essence of a strikable claim under the anti-SLAPP statute,  
 7 which protections are afforded to city councils and their members. “There is nothing in the language  
 8 of section 425.16 that denies its use by politicians.” (*Beilenson v. Superior Ct.* (1996) 44 Cal.App.  
 9 4th 944, 950.)

10 The City Council have met the first prong of the anti-SLAPP statute: the Ninth Cause of Action  
 11 arises from protected activity, the exercise of petition and free speech. Once this burden is met, the  
 12 burden shifts to Petitioner to prove the likelihood of success on the merits of the Ninth Cause of  
 13 Action.

14 In this regard, Petitioner does not have a leg to stand on. The Ninth Cause of Action alleges  
 15 that Petitioner was deprived of a “fair adjudicative hearing” or essentially a “fair trial.” As set forth  
 16 below, Petitioners have not even moved their project forward to “trial” because the City Council only  
 17 deemed the subject application incomplete, and the claims are otherwise time-barred. (See also,  
 18 Respondent’s Demurrers and Motions to Strike filed concurrently herewith.) Moreover, the protected  
 19 comments set forth by Petitioner do not indicate any irreconcilable bias against Petitioner, and were  
 20 not directed at Petitioner, but rather are only statements regarding state laws and (entirely irrelevant)  
 21 prior development projects.

22 **II. FACTS**

23 **A. Brief Summary of the Project Controversy**

24 While set forth in more complete detail in Respondent’s Demurrers to the Petition, the only  
 25 development project at issue in this action is Petitioner’s proposed 80 apartment, 12 hotel room, 200  
 26 parking spot, 7000 square foot office space plan, all built on 7 levels located at 600 Foothill Boulevard  
 27 in La Cañada Flintridge (the “Project”). Petitioner wrongly references two prior “projects” for the  
 28 same site at 600 Foothill Boulevard as somehow blocked by the City. In reality, the first project was

1 withdrawn by the applicant, and the second project (a large scale senior housing project) was not  
 2 approved after lengthy review and debate, including a controversy about then City Council Member  
 3 Jonathan Curtis’ purchase of the subject property site while serving as the City Planner and a City  
 4 Council Member. That conflict by City Council member Jonathan Curtis was, and remains, the  
 5 subject of an FPPC investigation. (Pet. Exh. 24, p. 20). While Petitioner makes much ado about past  
 6 projects that failed for myriad reasons, these prior “projects” have no bearing on the instant action  
 7 except as fodder for allegations of bias even though there is no basis to conflate the “projects” with  
 8 the single Project at issue here.

9 Petitioner sought to invoke the “Builder’s Remedy” in an attempt to force the Project past  
 10 otherwise required approval processes, but Petitioner’s right to a Builder’s Remedy is conditioned on  
 11 (among other things) the City lacking a “substantially compliant” Housing Element. Petitioner did  
 12 not make a timely challenge to the City’s October 2022 or the City’s revised February 2023 Housing  
 13 Element. Petitioner alleges some controversy regarding the City’s Housing Element (arduously  
 14 reviewed during and subjected to at least 18 hearings and related events), fundamentally because of  
 15 (and based on) the state Housing and Community Development Department’s (HCD) comments on  
 16 perceived deficiencies in the City’s Housing Element. The Housing Element’s substantial compliance  
 17 with relevant laws, however, does not end with this Byzantine bureaucratic process: only this Court  
 18 may make a final determination regarding the City’s compliance with the Housing Element Law.

19 Based upon the wrong assessment that the City’s Housing Element was not substantially  
 20 compliant with Housing Element Law, Petitioner argues that its right to the Builder’s Remedy  
 21 vested upon the date of its submission of its “SB 330” form application. (Pet. ¶¶ 34-39, 118-19).  
 22 The SB330 Form, dictated by statute and created by HCD, states that an applicant has “180 days to  
 23 submit a full application” or the Preliminary Application “will expire.” It also states that “CEQA  
 24 standards apply.” Petitioner does not allege (among other omissions) that any CEQA review of its  
 25 Project has occurred.

26 **B. The Relevant Decision by the City and Lack of a Final Determination**

27 The rule set forth in *Schellinger Bros. v. City of San Sebastopol* (2009) 179 Cal.App.4<sup>th</sup> 1245,  
 28 1250 applies here: the HAA (and therefore the Builder’s Remedy) “cannot be used to halt the decision-

1 making process specified by CEQA that is still ongoing.” Petitioner cannot simply force the City to  
2 prematurely approve its Project because it wants to build on its own schedule and forego mandated  
3 CEQA review.

4 The City’s challenged May 1, 2023, hearing did not “disapprove” the Project application—the  
5 requisite showing for a violation of any of the HAA regulations or other code sections that Petitioner  
6 alleges. Petitioner entirely dodges the statutory requirements put upon the City for a post-  
7 incompleteness review of a revised and complete application, requiring analysis of the application for  
8 compliance with the City’s development standards and state law requirements, the undertaking of an  
9 assessment of the potential environmental impact of the Project, setting the matter for public hearing  
10 with public notice, and presentation of the matter to the relevant decision making body for a **final**  
11 decision on the merits. As well, there are no “unlawful conflicts of interest and bias” and no proof of  
12 an “unacceptable probability of bias” offered by Petitioner, as required by prevailing case law, to  
13 challenge the fairness of the May 1 hearing.

14 As demonstrated by the City’s demurrers, Petitioner’s claims are premature because the  
15 Project applicant must move forward the lawful process that the City must in turn follow. This is  
16 relevant to the ability of Petitioner to demonstrate the likelihood of success on the merits of the Ninth  
17 Cause of Action—the City did not deny Petitioner the “fair trial on the merits” it alleges it was denied  
18 merely because the City insisted that the Project be processed according to established standards.

19 This history of what might be called the pitched controversy between Petitioner and other  
20 developers on the one hand, and the City on the other, by the standards of a small semi-suburban city,  
21 also sets the background for the absolutely protected speech and petitioning activity engaged in by  
22 the City Council members when faced with an avalanche of competing state law requirements and  
23 local interest in the City’s efforts to comply with the Housing Element Law.

### 24 **III. ARGUMENT**

#### 25 **A. Applicable Legal Standard**

26 The anti-SLAPP statute provides an accelerated method for the Court to dispose of litigation  
27 that infringes on the “valid exercise of the constitutional rights of freedom of speech and petition in  
28 connection with a public issue.” (*Lafayette Morehouse, Inc. v. Chronicle Publishing Co.* (1995))

1 37 Cal. App.4th 855, 858-59; Cal. Civ. Proc. Code § 425.16(b)(1).) An anti-SLAPP motion requires  
2 a two-step analysis: First, the defendant must demonstrate that his activity fell within the protections  
3 of the anti-SLAPP statute. (*Equilon Enterprises v. Consumer Cause, Inc.* (2002) 29 Cal.4th 53, 67.)  
4 In this first step of the analysis, the court does not focus on “the form of the plaintiff’s cause of action”;  
5 rather, the court looks to “the *defendant’s* activity that gives rise to his or her asserted liability – and  
6 whether *that* activity constitutes protected speech or petitioning.” (*Navellier v. Sletten* (2002) 29  
7 Cal.4th 82, 92 (emphasis added).

8         Once this burden is satisfied, the burden then shifts to Plaintiff to demonstrate a probability of  
9 prevailing on the merits. (*Equilon Enterprises*, 29 Cal.4th at 67.) As set forth below, the City has  
10 satisfied its burden while Petitioner has not and cannot.

11         **B. The Anti-Slapp Statute Applies to Public Entities and Their Members.**

12         Both a public entity and its individual members are protected by the anti-SLAPP statute. A  
13 public entity is vicariously liable for the conduct of its employees acting within the scope of their  
14 employment, but only to the extent that the employees are liable. (*Peter W. v. San Francisco Unified*  
15 *Sch. Dist.* (1976) 60 Cal.App.3d 814, 819.) Under the federal civil rights statute, municipalities and  
16 counties are also treated as if they were persons. (*Monell v. New York City Dept. of Social Services*  
17 (1978) 436 U.S. 658, 690; *Moor v. County of Alameda* (1973) 411 U.S. 693, 717-718.). “Given these  
18 precedents, as well as the compelling interest in the promotion of freedom of speech, the word  
19 “person” as used in section 425.16, subdivision (b) must be read to include a governmental entity.  
20 (*Bradbury v. Superior Ct.*, (1996) 49 Cal.App.4th 1108, 1114, as modified on denial of reh’g (Oct. 31,  
21 1996.) “[S]ection 425.16 extends to public employees who issue reports and comment on issues of  
22 public interest relating to their official duties. Where, as here, a governmental entity and its  
23 representatives are sued as a result of written and verbal comments, both may move to dismiss under  
24 section 425.16.” (*Id.*)

25         “The term ‘government speech’ ... conjures up the image of government as one mammoth  
26 bureaucracy that speaks with a single—and most likely deafening—voice. *This characterization*  
27 *understates the fragmentation of modern government into numerous units and entities, which each*  
28 *enjoy various degrees of independence and often feud with one another.*” (*Bradbury*, 49 Cal.App.4th

1 at 1118 (emphasis added)). As set forth below, Petitioner faults the City Council for speech regarding  
 2 other government entities (the legislature, executive branch housing departments) that takes this exact  
 3 form.

4 California Civil Code Section 47 specifically protects speech by and to public officials: A  
 5 privileged publication or broadcast is one made (a) In the proper discharge of an official duty.... By  
 6 a fair and true report in, or a communication to, a public journal, of (A) a judicial, (B) legislative, or  
 7 (C) other public official proceeding, or (D) of anything said in the course thereof...” (Cal. Civ. Code  
 8 § 47.) The City Council enjoys these same protections.

9 **C. The Speech Underlying Count Nine of the Petition is Protected by the Anti-**  
 10 **SLAPP Law.**

11 Petitioner cites numerous examples of protected speech by and to public representatives as the  
 12 gravamen of Count Nine. All of the speech involved is protected by California law.

13 For example, with brief explanations in italics:

- 14 • “Various members of Respondent City Council have made public comments in  
 15 opposition of State housing laws and the purported diminishment of local autonomy  
 16 over land use decisions.” Pet. ¶47. *The City Council dared to question state laws.*
- 17 • “Councilmember Walker indicated ‘that she lives on Beulah Drive and drives past the  
 18 site probably once a day going to the grocery store. She stated that she is very familiar  
 19 with the site and the traffic concerns....’ Before voting to deny the prior project, then-  
 20 Mayor Walker delivered a lengthy speech setting forth the reasons for her denial vote.”  
 21 Pet. ¶82. *The remarks concerned a prior project, irrelevant to this Petition, and she*  
 22 *expressed her own experiences living in the City.*
- 23 • “Councilmember Bowman delivered the lengthiest comments, in a pre-prepared  
 24 written statement, explaining his decision to deny the appeal on the basis that the  
 25 HAA’s Builder’s Remedy did not apply to the Project.” Pet. ¶84. *As part of the City’s*  
 26 *assessment of Petitioner’s erroneous appeal of the finding that their application was*  
 27 *incomplete, a councilmember dared to explain the reasoning of the (well founded)*  
 28 *decision.*

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- Councilmember Bowman emailed a constituent regarding a Los Angeles Times article regarding housing laws: “I read that article today. I’m hopeful things will be more straightforward for us because our [Housing Element] is in, we think it will be deemed compliant, and so far no one’s attempted to use the builder’s remedy that I know of (I just talked with the city manager and attorney this morning). We still have a lot of work to do, so I’m glad you’re staying up on the latest engaged.” *Id.* A councilmember communicated with a constituent regarding attempted compliance with state law and encouraged public engagement.
- “On the topic of complying with state housing element mandates, Councilmember Richard Gunter stated at a July 5, 2022 City Council hearing on the Housing element that ‘everyone realizes what a difficult situation the state has put the City in.’ Without any stated research or factual support, Mr. Gunter stated that the ‘law was passed with no research or evidence to back it up whatsoever and was assigned to a state organization that is understaffed and ill-prepared to prepare documents of this complexity amounting to many rules that were, by design, completely independent from each individual city, or its locale, or topography, or demography.” Pet. ¶ 85. A city councilmember expressed opinions regarding matters of public importance at a public hearing and expressed the common view that California government is often inefficient and dysfunctional.
- “Bowman and [a public interest group] shared articles, academic papers, and other materials concerning the Builder’s Remedy.” A councilmember engaged with local interest groups on matters of public concern.
- “In addition to these facts, City Councilmembers have repeatedly voiced strong opinions in favor of local control and against state housing laws more generally.” Pet. ¶ 85. *The people’s representatives have political opinions.*

All of these comments or communications are facially privileged and protected by the First Amendment, the anti-SLAPP law, and Cal. Civ. Code § 47. The City Council has therefore satisfied the first prong of the anti-SLAPP inquiry. The statements at issue are as benign as “taxes are too

1 high.” None of the comments are directed at Petitioner personally. As set forth below, Petitioner  
2 cannot show any chance of success on the merits.

3 **D. Petitioner Cannot Meet Its Burden of Showing Success on the Merits**

4 First, for the reasons set forth in the factual background, and more completely in the Demurrers  
5 to the Petition, Petitioner cannot state a claim for relief because its claims are time-barred as to the  
6 validity of the City’s Housing Element and, paradoxically, are also brought before the Court  
7 prematurely because the Project has never been the subject of a hearing on a final decision regarding  
8 the merits of the application for the Project. As set forth in the Demurrers to the other causes of action,  
9 the Ninth Cause of Action is subject to dismissal for multiple reasons.

10 Even ignoring the deficiencies in Petitioner’s claims, and the fact that its appeal of the finding  
11 that its application was not complete would otherwise fail, Petitioner could not state a claim against  
12 the City Council for a violation of its right to a “Fair Adjudicatory Hearing.” As set forth in the very  
13 case law relied upon by Petitioner: “[B]ias in an administrative adjudicator must be established with  
14 concrete facts rather than inferred from mere appearances.” (*Petrovich Dev. Co., LLC v. City of*  
15 *Sacramento* (2020) 48 Cal.App.5th 963, 974.) In *Petrovich*, a city council considered a hearing on a  
16 conditional use permit for a gas station. Statements made against the approval of the gas station, and  
17 communications with constituents regarding the suitability of the specific gas station were not enough  
18 to establish bias. (*Petrovich Dev. Co., LLC*, 48 Cal. App. 5th at 974 (“Equally, Councilmember  
19 Schenirer’s statement quoted in the letter from UFCW 8 - Golden State to the city attorney, i.e., that a  
20 gas station does not fit in the development as originally proposed, did not disqualify him from voting  
21 on the issue. The decision on siting a gas station in Curtis Park Village was plainly a matter of concern  
22 for members of the local community. ‘*A councilman has not only a right but an obligation to discuss*  
23 *issues of vital concern with his constituents and to state his views on matters of public*  
24 *importance.*’”) (emphasis added.) The fact that a council member lived close to the proposed gas  
25 station was not enough. (*Id.*) Membership in the Sierra Club was irrelevant. Only direct evidence of  
26 a concerted secret campaign to martial votes against the gas station established bias. In short, the  
27 people are not required to elect sphinxes to decide important questions.

28 Here, the statements and communications quoted by Petitioner are not even directed at

1 Petitioner, and at the very most addressed irrelevant past projects. Overwhelmingly, the challenged  
 2 speech addressed general matters of public concern and California’s complex and burdensome  
 3 housing laws.<sup>1</sup> Under Petitioner’s assumed standard of a fair hearing if applied to a courtroom, a  
 4 judge would be required to have no political views or history, or be appointed by a politician of a  
 5 particular political party, or run for re-appointment every six years, or live in an area affected by the  
 6 court’s rulings: such bizarre standards do not apply to city council hearings any more than they do to  
 7 an actual courtroom.

8           Petitioner’s vague reference “on information and belief” to a campaign contribution in 2020  
 9 to council member Walker’s campaign is irrelevant under California law and reflects Petitioner’s  
 10 views as to the political system. “Thus, a fair hearing is not precluded by the circumstance that an  
 11 interested party makes campaign contributions to members of the agency which will adjudicate its  
 12 claim, and does so more than 12 months prior to action by the members of that agency who receive  
 13 those contributions.” (*Breakzone Billiards v. City of Torrance* (2000) 81 Cal.App.4th 1205, 1229.)  
 14 Here, the political contribution at issue (by a former council member) is three years old and this donor  
 15 is not an interested party, but merely interested in local issues. (Pet. ¶ 86.)

16           Moreover, if campaign contributions, by persons not even the subject to City Council action,  
 17 are evidence of bias sufficient to establish denial of a fair adjudicative hearing, the Petitioner is, in  
 18 essence, attempting to have this Court rewrite the fair political practice laws of this state. In particular,  
 19 the California Legislature adopted Senate Bill 1439 (Gov’t Code § 843080; 2 CCR § 18438 et seq.),  
 20 which restricts elected officials from making decisions regarding proceedings that are pending before  
 21 them if a party or participant, as defined, to the proceeding makes contribution to their political  
 22 campaign during the preceding 12 months of more than \$250; SB 1439 prohibits such contributions  
 23 outright while a proceeding is pending or for 12 months thereafter. This reflects the Legislature’s  
 24 considered opinion that a 12-month window before and after a proceeding is sufficient time to ensure  
 25 a lack of undue influence by parties or participants to a proceeding. The prohibition does not extend

26 \_\_\_\_\_  
 27 <sup>1</sup> Petitioner’s implicit admission that it will do or spend anything so that it may enjoy “autonomy” in  
 28 “land use decisions” is therefore somewhat ironic given the speech that it challenges, and itself  
 raises similar issues regarding the efficacy of government intervention in the price system for  
 housing if developers are willing to resort to such lengths.

1 to campaign contributions of more than \$250 by anyone other than parties or participants. Even  
2 assuming, for argument’s sake, that the contributor would qualify as a participant under the statute,  
3 their contribution is far outside the window of concern. The contribution at issue is protected conduct,  
4 and Terry Walker’s acceptance of the contribution is also protected conduct.

5 The council members discussed compliance with the law, and the burdens associated with  
6 inconsistent and burdensome statutes. Council members discussed the overall legal issues regarding  
7 compliance with the Housing Element Law. The principals of the Petitioner and all council members  
8 live in the same small town as the Project, where Foothill Boulevard is the main thoroughfare and  
9 City’s center and runs a block away from City Hall, and where the Project is located, half a mile from  
10 City Hall. Everyone who lives and works and does business in the City is likely to drive by the site of  
11 the Project, and anyone going to City Hall is that much more likely to do so. Thus, a mere statement  
12 by a Councilmember that they often drive by the site and have concerns for the amount of traffic that  
13 a project of this size might generate is in no way indicative of bias, but is instead completely within  
14 the purview of a councilmember’s concern for their community. In short, all of this speech and  
15 communication with constituents fits squarely within innocent political activity and viewpoints as  
16 contemplated by *Petrovich* or any California standard related to a fair hearing by a local city council.

17 **E. The City Council Should Be Awarded Its Attorneys’ Fees and Costs**

18 Section 425.16(c) mandates that “a prevailing defendant on a special motion to strike shall be  
19 entitled to recover his or her attorney’s fees and costs.” The Court is required to make an award of  
20 attorney’s fees. Under subdivision (c) of section 425.16, “a prevailing defendant on a special motion  
21 to strike shall be entitled to recover his or her attorney’s fees and costs.” This section authorizes the  
22 court to make an award of reasonable attorney fees to a prevailing defendant, which will adequately  
23 compensate the defendant for the expense of responding to a baseless lawsuit. (*Dove Audio, Inc. v.*  
24 *Rosenfeld, Meyer & Susman* (1996) 47 Cal.App.4th 777, 785; *Moore v. Li* (1999) 69 Cal.App.4th 745,  
25 751.) Accordingly, if this Motion is granted, the City Council will request that the Court award its  
26 attorneys’ fees and costs incurred in connection with this Motion “by a separate, subsequently filed  
27 noticed motion.” (*Doe v. Luster* (2006) 145 Cal.App.4th 139, 144.)  
28

1 **IV. CONCLUSION**

2 For the foregoing reasons, the City Council's anti-SLAPP motion should be granted.

3  
4 DATED: August 22, 2023

GLASER WEIL FINK HOWARD  
JORDAN & SHAPIRO LLP  
ALESQUIRE & WYNDER, LLP

6 By: 

PETER C. SHERIDAN  
CHRISTOPHER L. DACUS

Attorneys for Respondents *City of La Cañada  
Flintridge; The City of La Cañada Flintridge  
Community Development Department; and  
the City of La Cañada Flintridge City Council*

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**PROOF OF SERVICE**

**STATE OF CALIFORNIA, COUNTY OF LOS ANGELES**

I am employed in the County of Los Angeles, State of California; I am over the age of 18 and not a party to the within action; my business address is 10250 Constellation Boulevard, 19th Floor, Los Angeles, California 90067.

On August 22, 2023, I served the foregoing document(s) described as **RESPONDENTS' NOTICE OF MOTION AND SPECIAL MOTION TO STRIKE UNDER CCP § 425.16 PETITIONER 600 FOOTHILL OWNER, LP'S VERIFIED PETITION'S NINTH CAUSE OF ACTION; MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT THEREOF** on the interested parties to this action by:  
SEE ATTACHED LIST

**(BY MAIL)** I am readily familiar with the business practice for collection and processing of correspondence for mailing with the United States Postal Service. This correspondence shall be deposited with the United States Postal Service this same day in the ordinary course of business at our Firm's office address in Los Angeles, California. Service made pursuant to this paragraph, upon motion of a party served, shall be presumed invalid if the postal cancellation date of postage meter date on the envelope is more than one day after the date of deposit for mailing contained in this affidavit.

**(BY ELECTRONIC SERVICE)** by causing the foregoing document(s) to be electronically filed using the Court's Electronic Filing System which constitutes service of the filed document(s) on the individual(s) listed on the attached mailing list.

**(BY E-MAIL SERVICE)** I caused such document to be delivered electronically via e-mail to the e-mail address of the addressee(s) set forth in the attached service list.

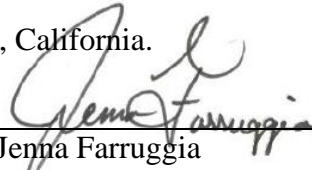
**(BY OVERNIGHT DELIVERY)** I served the foregoing document by FedEx, an express service carrier which provides overnight delivery, as follows: I placed true copies of the foregoing document in sealed envelopes or packages designated by the express service carrier, addressed to each interested party as set forth above, with fees for overnight delivery paid or provided for.

**(BY PERSONAL SERVICE)** I caused such envelope to be delivered by hand to the offices of the above named addressee(s).

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

(Federal) I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made. I declare under penalty of perjury that the above is true and correct.

Executed on August 22, 2023 at Los Angeles, California.

  
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Jenna Farruggia

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