

1 COX, CASTLE & NICHOLSON LLP
Alexander M. DeGood (State Bar No. 249509)
2 Robert R. Begland, Jr. (State Bar No. 210930)
Eric J. Cohn (State Bar No. 324818)
3 2029 Century Park East, Suite 2100
Los Angeles, California 90067-3284
4 Telephone: (310) 284-2200
Facsimile: (310) 284-2100
5 Email: adegood@coxcastle.com
rbegland@coxcastle.com
6 ecohn@coxcastle.com

7 Attorneys for Real Party in Interest
600 FOOTHILL OWNER, LP

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA

9 COUNTY OF LOS ANGELES

10 CALIFORNIA HOUSING DEFENSE
11 FUND, a California nonprofit public benefit
corporation,

12 Petitioner and Plaintiff,

13 v.

14 CITY OF LA CAÑADA FLINTRIDGE,

15 Respondent and Defendant,

16
17 600 FOOTHILL OWNER, LP, a limited
partnership,

18 Real Party in Interest,

19 PEOPLE OF THE STATE OF
20 CALIFORNIA, EX REL. ROB BONTA;
CALIFORNIA DEPARTMENT OF
21 HOUSING AND COMMUNITY
DEVELOPMENT,

22 Petitioners-Intervenors.
23

Case No. 23STCP02614
Related Case No. 23STCP02575

**600 FOOTHILL OWNER LP'S
OBJECTION TO RESPONDENT'S APRIL
7, 2025 STATEMENT TO THE COURT OF
COMPLIANCE WITH JUDGMENT AND
WRIT**

***[CONCURRENTLY FILED WITH [PROPOSED]
ORDER]***

Judge: Hon. Stephen I. Goorvitch
Dept: 82

1 **600 FOOTHILL OWNER’S OBJECTION TO RESPONDENT’S APRIL 7, 2025**

2 **STATEMENT TO THE COURT OF COMPLIANCE WITH JUDGMENT AND WRIT**

3 **Background and Context:**

4 **Timely approval and development of housing is central to the purpose of the**
5 **Housing Accountability Act (“HAA”)** (*i.e.*, Government Code section 65589.5), enacted and
6 continually refined by the state Legislature to break the cycle of local agency obstruction and
7 delay of housing development that has fueled the state’s ongoing housing crisis. The chronology
8 of events in this case is, therefore, of critical relevance—and to this 600 Foothill Owner, LP
9 (“600 Foothill Owner”) agrees with the City. (*See* City’s April 7, 2025 Statement to the Court of
10 Compliance with Judgment and Writ (the “April 7, 2025 Statement”), p. 3:14.)

11 **It has been nearly two-and-one-half years since** 600 Foothill Owner submitted a
12 preliminary application on November 10, 2022 (the “Preliminary Application”) to the City of La
13 Cañada Flintridge (the “City” or “Respondent”) for the 80-unit “builder’s remedy” housing
14 development project (the “Project”) at issue in this litigation. (Court’s March 5, 2024 Order, p.
15 5.)

16 **It has been nearly two years since** the City determined, on appeal by 600 Foothill
17 Owner, that the formal Project application was incomplete on May 1, 2023, and then
18 subsequently complete after all (but inconsistent with the City’s General Plan and zoning
19 ordinance) on May 26, 2023. (*Id.*, pp. 7–8.)

20 **It has been over one year since**, on March 5, 2024, the court unequivocally determined
21 that the City violated the HAA when it “disapproved” the Project. (*See generally id.*)

22 **It has been over one year since**, on April 11, 2024, the City appealed the court’s
23 judgment in the action (the “Judgment”) (entered on April 5, 2024), without posting the
24 statutorily required HAA appeal bond (and thereby perfect the appeal of the Judgment). (*See*
25 *generally* February 28, 2025 Order Setting Bond Amount; Gov. Code, 65589.5, subd. (m).)

26 **It has been nearly one year since**—following the court’s issuance of the peremptory
27 writ of mandate at issue in this action (the “Writ”) (on April 16, 2024)—Petitioner California
28 Housing Defense Fund (“CalHDF”) served the City on May 22, 2024 with the Writ. (April 7,

1 2025 Statement, Exh. A [City’s acknowledgment of service of the Writ].) Such service
2 commenced the 60-day deadline mandated by the Writ for the City to process the Project to a
3 final decision unless the City complied with the 45-day deadline outlined in the Writ to file and
4 serve a statement identifying why environmental review under the California Environmental
5 Quality Act (“CEQA”) (*i.e.*, Public Resources Code section 21000 et seq.) made it infeasible for
6 the City to comply with the prescribed 60-day deadline. (Writ, ¶¶ 2–3; *see also* Gov. Code, §
7 65589.5, subd. (k)(1)(A)(ii) [court’s order compelling compliance with the HAA cannot exceed
8 60 days].)

9 **Now after all that delay**, the City continues to maintain that it will *not* process the
10 Project until 600 Foothill Owner, in accordance with City Council Resolution No. 24-15
11 (adopted on May 7, 2024, *after* Judgment and issuance of the Writ), deposits an initial sum of
12 **\$325,000** with the City to just commence its long overdue (if even necessary in the first instance)
13 CEQA process. (*See* April 7, 2025 Statement, p. 7:10–17 [tying the City’s requested time periods
14 for compliance with 600 Foothill Owner’s payment of the deposit]; *id.*, Exh. T, p. 1 [referencing
15 the initial deposit amount of \$325,000 as identified in the reimbursement and indemnification
16 agreement the City has been requiring 600 Foothill Owner to execute].) The Writ does not
17 require 600 Foothill Owner to deposit such an obscene and unnecessary sum (or any deposit for
18 that matter), and yet incredibly, the City admits it continues to demand this sum despite the fact
19 that the California Department of Housing and Community Development (“HCD”) has stated
20 that the City’s insistence on compliance with City Council Resolution No. 24-15 would be a
21 separate violation of the HAA because the Project was vested as to the City’s ordinances,
22 policies, and standards (which includes fees) adopted and in effect when the Preliminary
23 Application was submitted to the City. (*See generally* Writ; April 7, 2025 Statement, Exh. W
24 [HCD Letter of Technical Assistance to the City dated September 17, 2024].) Further, the City,
25 without reviewing any Project-specific analysis, purports to have already determined the Project
26 requires an environmental impact report (“EIR”), which is the mostly time-intensive and costly
27 form of environmental review under CEQA. This preconditioning is a CEQA violation. (*E.g.*,
28 CEQA Guidelines, § 15300.4 [public agencies may not require an EIR if a project otherwise

1 meets the requirements for a categorical exemption].) And is especially unjustified given that the
2 City previously prepared a mitigated negative declaration (“MND”) for an earlier iteration of the
3 Project. (April 7 2025 Statement, Exh. T, p. 4, fn. 7.)

4 The City’s intent to use CEQA to drag out the processing of the Project is evident in its
5 requested (at least 180 days and potentially one year) timeframe for CEQA review of the Project.
6 (April 7 2025 Statement, pp. 5:23–7:17.) The City (intentionally or not) incorrectly identifies the
7 CEQA Guidelines time limits for environmental review as mere minimums, when they are in
8 fact designed to prevent exactly this kind of delay. (*Compare* April 7, 2025 Statement, p. 5:23–
9 27 [describing the 180-day time limit in CEQA Guidelines section 15107 as an “at least” or
10 *minimum* timeframe] *with* CEQA Guidelines, § 15107 [a general 180-day *maximum* time limit];
11 *see Sunset Drive Corp. v. City of Redlands* (1999) 73 Cal.App.4th 215, 220 [discussing the
12 CEQA Guidelines time limits as maximums].)

13 **CEQA, notwithstanding any generalized savings clause in the HAA, has never been**
14 **intended to be so misused.** (*E.g.*, CEQA Guidelines, § 15003, subd. (j) [CEQA must not be
15 subverted into an instrument for the oppression and delay of development or advancement];
16 *Tiburon Open Space Committee v. County of Marin* (2022) 78 Cal.App.5th 700, 782 [“CEQA
17 was meant to serve noble purposes, but it can be manipulated to be a formidable tool of
18 obstruction, particularly against projects that will increase housing density”].)

19 **Without the Court’s targeted intervention,** the City will continue to undermine some
20 laws (*e.g.*, the HAA), make a mockery of others (*e.g.*, CEQA), and thwart the development of the
21 Project and its contribution of 80 housing units toward resolving the acknowledged statewide
22 housing crisis. The City has no intention of complying with CEQA, or doing anything other than
23 using every avenue possible to delay and, if permitted, kill the Project.

24 **The City has Failed to Comply with the Writ:**

25 The City knowingly violated the HAA by appealing the Judgment without posting the
26 statutorily required HAA appeal bond (and thereby perfecting the appeal and stay of the Judgment).
27 (*See generally* February 28, 2025 Order Setting Bond Amount; Gov. Code, 65589.5, subd. (m); *cf.*
28 Code of Civ. Proc, § 918, subd. (b) [“[i]f the enforcement of the judgment or order would be stayed on

1 appeal only by the giving of an undertaking, a trial court shall not have power, without the consent of
2 the adverse party, to stay the enforcement thereof pursuant to this section for a period which extends
3 for more than 10 days beyond the last date on which a notice of appeal could be filed.”]; Code of Civ.
4 Proc., § 916, subd. (a) [referencing other Code of Civil Procedure sections that require a bond or
5 undertaking to perfect an appeal and stay enforcement of the judgment].)

6 To hold that the City suffers no consequences, in spite of the City’s failure to post (or even
7 proactively seek a judicial declaration on its requirement to post) the statutorily required HAA appeal
8 bond, especially after the appeal of the Judgment was pending for over one year, would render
9 meaningless the very purpose of the HAA appeal bond requirement—*i.e.*, to avoid Pyrrhic victories for
10 housing developers. (*See* February 28, 2025 Order Setting Bond Amount, pp. 3–4 [citing to the
11 following legislative history—“[t]his bill adds fines an appeals bond requirement to the enforcement
12 provisions of the anti-NIMBY law. Affordable housing developers have found that, even if they are
13 successful in anti-NIMBY court action against a local government, they often lose their projects as a
14 result of increases in costs, loss of permits or land, or other consequences of the amount of time it took
15 to get through the legal process”]; Gov. Code, § 65589.5, subd. (a)(2)(L) [“[i]t is the policy of the state
16 that this section be interpreted and implemented in a manner to afford the fullest possible weight to the
17 interest of, and the approval and provision of, housing”].) Accordingly, **the City’s assertion that it
18 has timely complied with the Writ**—notwithstanding the Writ deadlines elapsing over nine months
19 ago (*i.e.*, 45 days from May 22, 2024 was July 6, 2024 and 60 days from May 22, 2024 was July 21,
20 2024)—**because the Writ was stayed during the pendency of the appeal of the Judgment is
21 patently and necessarily false.** (April 7, 2025 Statement, p. 2:14–22 [City’s admission that it
22 considered that it did not need to comply with the Writ while its appeal of the Judgment was
23 pending]¹.)

24 _____
25 ¹ By this very token, the City’s attempt to blame 600 Foothill Owner for the City’s “dead in the water”
26 CEQA process is entirely misplaced. The City could not reasonably expect for 600 Foothill Owner to
27 expend additional resources on the Project given the City’s appeal of the Judgment and (albeit
28 incorrect) insistence that it did not need to comply with the Writ and process the Project while its
appeal was pending. (*See* February 28, 2025 Order Setting Bond Amount, pp. 4–5 [“[t]he City’s
argument is not persuasive because the City asks the real party [600 Foothill Owner] to undertake the
CEQA review—an expensive and time consuming process—while it simultaneously challenges Judge

1 **600 Foothill Owner’s Request for Relief**

2 The City, informed by the input of five City Council decisionmakers and multiple legal
3 counsel, wants the benefit of its selective obstruction without the burden of accountability. The City,
4 however, has made its choices and now must deal with the express consequences outlined for
5 continued noncompliance with the HAA and the Writ. (Gov. Code, § 65589.5, subd. (k)(1)(B)–(D);
6 *see also id.*, subd. (k)(1)(A)(ii) [court’s required retention of jurisdiction to ensure that its order or
7 judgment compelling compliance with the HAA is carried out].)

8 **As such, in accordance with the HAA, 600 Foothill Owner requests the Court order the**
9 **following:**

10 1. That, to ensure the purpose and policies of the HAA are fulfilled, the City approve the
11 Project “along with any standard conditions determined by the court to be generally imposed by the
12 local agency on similar projects.” (Gov. Code, § 65589.5, subd. (k)(1)(C).) Given approval of the
13 Project would be ordered on the City, such approval would not require CEQA compliance. (*See Pub.*
14 *Res. Code*, § 21080, subd. (a) [CEQA only applies to discretionary projects]; *id.*, subd (b)(1) [CEQA
15 does not apply to ministerial projects]; CEQA Guidelines, § 15369 [“‘Ministerial’ describes a
16 governmental decision involving little or no personal judgment by the public official as to the wisdom
17 or manner of carrying out the project. The public official merely applies the law to the facts as
18 presented but uses no special discretion or judgment in reaching a decision.”]; *McCorkle Eastside*
19 *Neighborhood Group v. City of St. Helena* (2018) 31 Cal.App.5th 80, 92–94 [holding that because a
20 city’s ordinances prevented it from disapproving the project for non-design-related matters, the city
21 had no meaningful discretion to address environmental impacts, and as such there was no
22 discretionary project (and accordingly no environmental review required) under CEQA].)

23 2. That the Court impose fines on the City in the minimum amount of \$800,000²—*i.e.*,

24 _____
25 Beckloff’s decision to grant the petition.”.) With the City’s dismissal of the appeal of the Judgment,
26 600 Foothill Owner is working in earnest with a leading environmental consultant to prepare the
requisite CEQA clearance for the Project.

27 ² This amount can reach a minimum of \$4,000,000, if the Court finds that the City has acted in “bad
28 faith” in its continued violations of the HAA and the Judgment and Writ issued therefrom. (Gov. Code,
§ 65589.5, subd. (l) [“If the court finds that the local agency (1) acted in bad faith when it violated this

1 \$10,000 per housing unit * 80 units in the Project—to be deposited and expended in accordance with
2 Gov. Code section 65589.5 subdivision (k)(1)(B). (Gov. Code, § 65589.5, subd. (k)(1)(B).)

3 **3.** That the Court issue any other order, in addition to the above, it deems necessary and
4 proper to enforce the Writ. (Gov. Code, § 65589.5, subd. (k)(1)(D); Code of Civ. Proc., § 1097 [“If a
5 peremptory mandate has been issued and directed to an inferior tribunal, corporation, board, or
6 person, and it appears to the court that a member of the tribunal, corporation, or board, or the person
7 upon whom the writ has been personally served, has, without just excuse, refused or neglected to obey
8 the writ, the court may, upon motion, impose a fine not exceeding one thousand dollars. In case of
9 persistence in a refusal of obedience, the court may order the party to be imprisoned until the writ is
10 obeyed, and may make any orders necessary and proper for the complete enforcement of the writ.”] ;
11 *see also King v. Woods* (1983) 144 Cal.App.3d 571, 577–579 [discussion of various methods of
12 enforcing writ]; *Carroll v. Civil Serv. Comm’n* (1970) 11 Cal.App.3d 727, 733 [remedy for refusing
13 or neglecting to obey peremptory writ is in nature of sanctions for contempt].)

14 **As this point, absent the above requested Court orders, the City will continue to find ways**
15 **to manipulate the law, to achieve its intended goal of thwarting the Project at all costs.**

16 If, despite the City’s years-long crusade to stop housing development at all costs, the Court
17 wishes to afford the City one last opportunity to comply with state law, 600 Foothill Owner requests
18 that, at a minimum, the Court order the following:

19 **1.** The City is prohibited from requiring a \$325,000 deposit to undertake CEQA review of
20 the Project. The City may charge 600 Foothill Owner a reasonable hourly staff time rate to review the
21 comprehensive CEQA documentation submitted by 600 Foothill Owner.

22 **2.** The City shall review and provide comments (if any) on 600 Foothill Owner’s

23 _____
24 section and (2) failed to carry out the court’s order or judgment within the time period prescribed by
25 the court, the court, in addition to any other remedies provided by this section, shall multiply the fine
26 determined pursuant to subparagraph (B) of paragraph (1) of subdivision (k) by a factor of five. If a
27 court has previously found that the local agency violated this section within the same planning period,
28 the court shall multiply the fines by an additional factor for each previous violation.”.) In this context,
“bad faith” is defined rather expansively. (*Id.* [“ or purposes of this section, ‘bad faith’ includes, but is
not limited to, an action or inaction that is frivolous, pretextual, intended to cause unnecessary delay,
or entirely without merit.”].)

1 submitted CEQA documentation within 30 days of submission.

2 **3.** Parties shall have 14 days from receipt of the City’s CEQA comments to either (i) reply
3 to the comments, and thereby continue the CEQA review process, or (ii) lodge objections with the
4 court, at which time the court may either rule on the objections or set a hearing.

5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

DATED: April 21, 2025

Respectfully submitted,

COX, CASTLE & NICHOLSON LLP

By: /s/ Alexander M. DeGood

Alexander M. DeGood

Attorneys for Real Party in Interest 600 Foothill Owner,
L.P.

PROOF OF SERVICE AND CERTIFICATION

I am employed in the County of Los Angeles, State of California. I am over the age of 18. My business address is 2029 Century Park East, 21st Floor, Los Angeles, California 90067-3284.

(FOR MESSENGER) My business address _____.

On April 21, 2025, I served the foregoing document(s) described as **600 FOOTHILL OWNER LP'S OBJECTION TO RESPONDENT'S APRIL 7, 2025 STATEMENT TO THE COURT OF COMPLIANCE WITH JUDGMENT AND WRIT** in this action by placing the original a true copy thereof enclosed in a sealed envelope addressed as follows:

SEE ATTACHED SERVICE LIST

On the above date:

(BY U.S. MAIL/ CERTIFIED MAIL – RETURN RECEIPT REQUESTED) The sealed envelope with postage thereon fully prepaid was placed for collection and mailing following ordinary business practices. I am aware that on motion of the party served, service is presumed invalid if the postage cancellation date or postage meter date on the envelope is more than one day after the date of deposit for mailing set forth in this declaration. I am readily familiar with Cox, Castle & Nicholson LLP's practice for collection and processing of documents for mailing with the United States Postal Service and that the documents are deposited with the United States Postal Service the same day as the day of collection in the ordinary course of business.

(BY FEDERAL EXPRESS OR OTHER OVERNIGHT SERVICE) I deposited the sealed envelope in a box or other facility regularly maintained by the express service carrier or delivered the sealed envelope to an authorized carrier or driver authorized by the express carrier to receive documents.

(BY E-MAIL) I served the above-referenced documents(s) by electronic mail to the email address of the addressee(s) pursuant to Rule 2.251 of the California Rules of Court. The transmission was complete and without error and I did not receive, within a reasonable time after that transmission, any electronic message or other indication that the transmission was unsuccessful.

(BY PERSONAL DELIVERY) By causing a true copy of the within document(s) to be personally hand-delivered to the office(s) of the addressee(s) set forth above, on the date set forth above.

(FEDERAL ONLY) 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 hereby certify that the above document was prepared and printed on recycled paper.

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

Executed on April 21, 2025, at Los Angeles, California.



MyKieu Walroth

SERVICE LIST

<p>Dylan Casey, Esq. Nicholas Eckenwiler, Esq. CALIFORNIA HOUSING DEFENSE FUND 360 Grand Avenue, #323 Oakland, CA 94160 Email: dylan@calhdf.org nick@calhdf.org</p> <p>Lisa Ells, Esq. Alexander Gourse, Esq. ROSEN BEIN GALVAN & GRUNFELD LLP 101 Mission Street, Sixth Floor San Francisco, CA 94105 Phone: (415) 433-6830 Email: lells@rbgg.com agourse@rbgg.com</p> <p><i>Attorneys for Petitioner</i> CALIFORNIA HOUSING DEFENSE FUND</p>	<p>Alison Flowers, Esq. Adrian Guerra, Esq. Lily Madrid ALESHIRE & WYNDER, LLP 1 Park Plaza, Suite 1000 Irvine, CA 92614 Phone: (949) 223-1170 Email: aflowers@awattorneys.com aguerra@awattorneys.com lmadrid@awattorneys.com</p> <p>Peter C. Sheridan, Esq. Christopher L. Dacus, Esq. GLASER WEIL FINK HOWARD JORDAN & SHAPIRO LLP 10250 Constellation Boulevard, 19th Floor Los Angeles, CA 90067 Phone: (310) 553-3000 Email: psheridan@glaserweil.com cdacus@glaserweil.com jfarruggia@glaserweil.com (Asst.)</p> <p><i>Attorneys for Respondent and Defendant</i> CITY OF LA CAÑADA FLINTRIDGE</p>
<p>Rob Bonta, Esq. Christina Bull Arndt, Esq. David Pai, Esq. Nina Lincoff, Esq. OFFICE OF THE ATTORNEY GENERAL OF CALIFORNIA 1515 Clay Street, 20th Floor P.O. Box 70550 Oakland, CA 94612-0550 Email: Nina.Lincoff@doj.ca.gov Christina.Arndt@doj.ca.gov</p> <p><i>Attorneys for Petitioner-Intervenors</i> PEOPLE OF THE STATE OF CALIFORNIA, EX REL. ROB BONTA; CALIFORNIA DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT</p>	