

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

Civil Division

Central District, Stanley Mosk Courthouse, Department 82

23STCP02614

October 17, 2025

**CALIFORNIA HOUSING DEFENSE FUND, A CALIFORNIA
NONPROFIT PUBLIC BENEFIT CORPORATION vs CITY
OF CITY OF LA CAÑADA FLINTRIDGE**

9:30 AM

Judge: Honorable Daniel S. Murphy
Judicial Assistant: R. Mendoza
Courtroom Assistant: I. Marin

CSR: None
ERM: None
Deputy Sheriff: None

APPEARANCES:

For Petitioner(s): Alexander Ross Gourse (Telephonic)

For Defendant(s): Christopher Lawrence Dacus and Peter C. Sheridan; Alexander Michael DeGood and Eric J. Cohn; David Pai (Telephonic)

NATURE OF PROCEEDINGS: Hearing on Motion - Other to recover damages; Hearing on Motion - Other for relief (Petitioner and Real Party)

The matters are called for hearing.

After reading and considering all moving and opposing documents, hearing argument, and conferring with counsel, the Court rules as follows:

The Court takes the matter under submission.

The Court, having taken the matter under submission on October 17, 2025, now rules as follows:

Order Denying Motions to Enforce the Writ and Judgment

Order Denying Motion to Recover Damages for City of La Cañada Flintridge's Failure to Comply with Housing Accountability Act Appeal Bond Requirement

INTRODUCTION

On March 4, 2024, the court (Beckloff, J.) issued an order granting these petitions for writs of mandate enforcing the "builder's remedy" provision of California's Housing Accountability Act (the "HAA") (Gov. Code § 65589.5.) The court entered judgment on April 5, 2024, and issued the writ on April 16, 2024. In paragraph (2), the writ directs the City of La Cañada (the "City") to do the following: (1) Set aside the decision of May 1, 2023 finding that Real Party in Interest 600 Foothill LP's application for a mixed-use development does not qualify for the builder's

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remedy; (2) process Real Party in Interest 600 Foothill LP's application in a manner that complies with the Housing Accountability Act and state law; and (3) file with the court and serve on the parties a return describing the steps taken to comply with the writ. Meanwhile, on April 11, 2024, the City filed a notice of appeal. Petitioners filed a motion for bond on appeal pursuant to Government Code section 65589.5(m). After protracted litigation and discovery, the court (Goorvitch, J.) granted the motion and set the bond in the amount of \$14 million. (See Court's Order, dated February 28, 2025.) On or about March 10, 2025, less than two weeks after the court set the bond amount, the City dismissed its appeal.

Real Party in Interest 600 Foothill LP ("Real Party" or "600 Foothill") now moves for an order approving an award of damages in the amount of \$6,386,301.37 against the City. 600 Foothill contends that the HAA mandated the City to post an appeal bond; that the City failed to fulfill that duty; and that the City is liable for damages that it caused when it filed its appeal. Petitioner California Housing Defense Fund ("CHDF") and 600 Foothill (collectively, "Petitioners") also previously filed "objections" arguing that the City failed to comply with the writ and seeking certain remedies and relief. The court (Goorvitch, J.) construed the objections as motions to enforce the writ and set the matter for hearing. Both matters are calendared for hearing this date. For the reasons discussed below, 600 Foothill's motion for damages and Petitioners' motions to enforce the writ are denied.

DISCUSSION

A. 600 Foothill Is Not Entitled to Damages

600 Foothill contends that it was damaged when the City filed its appeal and then failed to post the bond required by Government Code section 65589.5(m) of the HAA. (Motion to Recover Damages ("Mot.") 11.) 600 Foothill contends that the City is not "immune" from damages caused by its failure to comply with the bond requirement. (Mot. 11-14.) 600 Foothill's motion is unpersuasive for multiple reasons.

1. Section 65589.5(m) Does Not Provide for Damages if the Local Agency Dismisses its Appeal and Fails to Post the Bond

In effect, 600 Foothill contends that section 65589.5(m) of the HAA authorizes an award of damages caused by an appeal even if the local agency dismisses its appeal before posting the appeal bond. 600 Foothill raises a question of statutory interpretation. The rules governing

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statutory interpretation are clear:

We begin with the fundamental premise that the objective of statutory interpretation is to ascertain and effectuate legislative intent. To determine legislative intent, we turn first to the words of the statute, giving them their usual and ordinary meaning. When the language of a statute is clear, we need go no further. However, when the language is susceptible of more than one reasonable interpretation, we look to a variety of extrinsic aids, including the ostensible objects to be achieved, the evils to be remedied, the legislative history, public policy, contemporaneous administrative construction, and the statutory scheme of which the statute is a part.

(Nolan v. City of Anaheim (2004) 33 Cal.4th 335, 340, internal citations omitted.) In relevant part, section 65589.5(m) of the HAA provides as follows:

Upon entry of the trial court’s order, a party may . . . appeal the judgment or order of the trial court under Section 904.1 of the Code of Civil Procedure. If the local agency appeals the judgment of the trial court, the local agency shall post a bond, in an amount to be determined by the court, to the benefit of the plaintiff if the plaintiff is the project applicant. (Gov. Code § 65589.5(m), emphasis added.)

The plain language of the statute requires the court to “determine” the amount of the bond and the local agency to post the bond after that determination is made. The statute does not require the local agency to post a bond before the court determines the amount. 600 Foothill cites no authority, or language in the statute, supporting a different interpretation. As a practical matter, it is unclear how a local agency could post a bond until the amount is determined. Further, the statute does not prohibit the local agency from dismissing its appeal should the court order a bond that the local agency is not willing, or able, to post.

Contrary to 600 Foothill’s assertion, section 65589.5(m) does not authorize an award of damages if the local agency dismisses an appeal before posting the bond. No language in the statute supports 600 Foothill’s position. Indeed, the word “damages” is not included anywhere in the HAA. “When interpreting statutory language, we may neither insert language which has been omitted nor ignore language which has been inserted.” (People v. National Auto. and Cas. Ins. Co. (2002) 98 Cal.App.4th 277, 282.)

Although the statute is clear, the legislative history also shows that the Legislature did not intend

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to authorize an award of damages if the local agency dismisses the appeal before posting the bond. When drafting the relevant amendments to the HAA, adopted in 2005, the Legislature originally considered allowing a damages claim. (Declaration of Peter Sheridan, filed October 6, 2025 (“Sheridan Decl.”) ¶¶ 5-7, Exh. D.) However, the Legislature removed that provision from the statute and, in its place, inserted fines and the appeal bond requirement. As summarized in the Senate Bill analysis:

This bill adds fines, an expedited process for hearing anti-NIMBY cases, and an appeals bond requirement to the enforcement provisions of the Anti-NIMBY Law. Affordable housing developers have found that, even if they are successful in an anti-NIMBY court action against a local government, they often lose their projects as a result of increases in costs, loss of permits or land, or other consequences of the amount of time it took to get through the legal process. This bill originally gave courts the option of awarding actual damages to successful developer plaintiffs to make up for these losses, increase the likelihood of the project actually being built, and create a disincentive to local governments to force a case into court. As a result of negotiations between the interested parties, this bill now authorizes the assessment of fines on local governments that are found to have acted in bad faith in disapproving a project and failed to carry out the court’s order or judgment within 60 days.

(Sheridan Decl. Exh. D at 3.) In summary, there is nothing in the HAA or its legislative history suggesting that a court may award damages to a developer if the local agency files an appeal but then dismisses the appeal, and fails to post a bond, shortly after the court determines the amount of the bond. On this basis, 600 Foothill’s motion for damages must be denied.

2. Government Code Section 815.6 is Irrelevant

600 Foothill argues that the City is not “immune” from damages caused by its failure to comply with the bond requirement, and that the usual protections of public entity immunity do not apply. (Mot. 11-14.) 600 Foothill states that “all three requirements for liability under Government Code section 815.6 are satisfied” (Mot. 14:1-3; see *B.H. v. County of San Bernardino* (2015) 62 Cal.4th 168, 179 [section 815.6 “provides a statutory exception to the general rule of public entity immunity” and applies where, among other things, “a public entity is under a mandatory duty imposed by an enactment that is designed to protect against the risk of a particular kind of injury”].)

This argument misses the mark. As discussed above, the bond provision of the HAA is not self-

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executing and requires the court to determine the amount of the bond. Also, in its February 28, 2024, order, the court ordered the City “to post a bond of \$14 million within thirty (30) days or to dismiss its appeal.” (emphasis added.) The City did not have a mandatory duty to post a bond until the court determined the amount. And, after the court determined the amount, the City was not prohibited by the HAA or this court’s order from exercising its discretion to dismiss the appeal rather than post the bond. On March 10, 2025, less than two weeks after the court set the bond amount, the City dismissed its appeal. Because the City had discretion to dismiss the appeal, and because it elected to dismiss the appeal shortly after the court’s bond order was issued, the City was not subject to a mandatory duty and Government Code section 815.6 does not apply.

3. 600 Foothill Has Not Proven its Damages

Even if arguendo the City had posted the bond, 600 Foothill would need to prove its damages caused by the appeal. (See Oppo. 10-11; Code Civ. Pro. § 996.440.) 600 Foothill has not submitted any declarations or other evidence proving the damages that it allegedly suffered due to the City’s appeal. Rather, 600 Foothill relies entirely on the court’s estimate of damages in its order setting the amount of bond. (See Mot. 18, fn. 3.) As 600 Foothill’s counsel acknowledged at the bond hearing, “projected losses are necessarily estimates for purposes of setting an appeal bond.” (Sheridan Decl. Exh. A at 22:13-16.) The court did not find that the amount of the bond represented actual, precise damages and that the entire amount, or a pro rata share, could be simply transferred to 600 Foothill in a subsequent calculation of damages. Accordingly, even if the HAA authorized 600 Foothill to pursue damages (it does not), 600 Foothill has not proven the amount of damages.

Based on the foregoing, 600 Foothill’s motion to recover damages for the City’s alleged failure to comply with the HAA appeal bond requirement is denied. In light of this conclusion, the court need not reach the parties’ remaining contentions related to the motion for damages.

B. 600 Foothill Has Not Pleaded a Takings Claim and Cannot Seek Such Relief Post-Judgment

600 Foothill also contends that the City effected a temporary taking of 600 Foothill’s property when it filed the appeal and “stonewalled” the Project. (Mot. 14-17.) 600 Foothill contends that the court “should determine liability and set a trial for determination of just compensation.” (Mot. 17:19-20.) The petition filed by 600 Foothill does not include a takings claim. “It is axiomatic that [t]he pleadings establish the scope of an action and, absent an amendment to the

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pleadings, parties cannot introduce evidence about issues outside the pleadings.” (Schweitzer v. Westminster Investments, Inc. (2007) 157 Cal.App.4th 1195, 1214.) Further, judgment has already been entered and the court has jurisdiction over the case only with respect to enforcement of the writ. (See Los Angeles Internat. Charter High School. V. Los Angeles Unified School Dist. (2012) 209 Cal.App.4th 1348, 1355.) 600 Foothill cites no authority in support of its request for post-judgment trial on a takings claim that is not pleaded in the petition. For these procedural reasons, the court denies 600 Foothill’s requests to determine liability for an alleged takings and to set a trial for determination of just compensation. The court does not reach the merits of 600 Foothill’s takings claim.

C. The Motion to Enforce the Writ

“The trial court that issues a writ of mandate retains continuing jurisdiction to make any orders necessary for complete enforcement of the writ.” (Los Angeles Internat. Charter High School. V. Los Angeles Unified School Dist. (2012) 209 Cal.App.4th 1348, 1355.) Code of Civil Procedure section 1097 “authorizes three methods by which a court may enforce a peremptory writ of mandate: (1) a court may impose a fine not exceeding \$1,000; (2) a court may order the disobedient party to be imprisoned until the writ is obeyed; and (3) a court may make any order necessary and proper to enforce the writ.” (King v. Woods (1983) 144 Cal.App.3d 571, 577-578.)

The HAA also provides for enforcement remedies if a court finds that a municipality fails to comply with the court’s remedial orders under the Act. Specifically, Government Code section 65589.5(k)(1)(B) and (C) provide in relevant part:

(B) Upon a determination that the local agency has failed to comply with the order or judgment compelling compliance with this section within the time period prescribed by the court, the court shall impose fines on a local agency that has violated this section and require the local agency to deposit any fine levied pursuant to this subdivision into a local housing trust fund....

(C) If the court determines that its order or judgment has not been carried out within 60 days, the court may issue further orders as provided by law to ensure that the purposes and policies of this section are fulfilled, including, but not limited to, an order to vacate the decision of the local agency and to approve the housing development project....

(Gov. Code § 65589.5(k)(1)(B) and (C).)

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As discussed in the court’s order dated July 18, 2025, the legal “landscape” of this case changed substantially on June 30, 2025, when Governor Newsom signed into law Assembly Bill (“AB”) 130. AB 130 establishes a new statutory exemption from CEQA for qualifying infill housing development projects. The parties agree that 600 Foothill’s development project qualifies under AB 130 for an exemption from CEQA. (See Real Party’s Supplemental Reply 2; City’s Additional Supplemental Opposition 2.) Thus, many of the issues raised in these motions to enforce have been resolved, including the requests for a schedule on the City’s review of the Project under CEQA. On July 18, 2025, the court (Traber, J.) continued the hearing on the motions to enforce for approximately 60 days so that the City could complete the tribal consultation required by AB 130. The City represents that the tribal consultation has been completed. (See Status Report filed September 11, 2025.) The City also represents that the following has since occurred:

The City’s Planning Commission met on September 18, 2025 and (i) approved 600 Foothill’s Tree Removal Permit and Conditional Use Permit (for the hotel and office units), with the housing portion of the Project “permitted by right,” and (ii) recommended to that City Council that it approve the Tract Map. See City Council Agenda for October 3, 2025, Item No. 8 (600 Foothill Project), page 2 of 10, a true and correct copy of which is attached hereto as Exhibit E. The City Council’s adopted conditions of approval for the Tract Map removed an “indemnification” provision to which 600 Foothill objected (when included by the Planning Commission) as to the Tract Map and concerning which 600 Foothill took an appeal to the City Council (calendared then for October 14, 2025) when such was made a condition on the CUP. The need for 600 Foothill’s appeal on the “indemnification” condition attached to the CUP appears to have been obviated by removal of the “indemnification” condition by the City Council on the Tract Map, as well as by other changes made to the conditions for approval at the request of 600 Foothill (video link to October 3, 2025 Meeting of City Council, available at lcf.ca.gov/city-clerk/agenda-minutes.)

(Sheridan Decl. ¶ 8.)

Before AB 130, the City had a mandatory duty to process the project pursuant to CEQA. To the extent there were delays in compliance with CEQA or the court’s order before AR 130, they were attributable to the appeal filed by the City and to the litigation and discovery associated with Petitioners’ bond motion. Those delays were the natural consequence of ongoing litigation and do not justify fines or other relief under the HAA. After AB 130 was enacted, the City timely

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completed the tribal consultation process and took the necessary steps to grant final approval to the Project. In sum, the City has complied with the writ of mandate issued by the court. Therefore, the motions to enforce the writ are denied.

CONCLUSION

600 Foothill's motion for damages is denied.

Petitioners' motions to enforce the writ are denied.

[1] In paragraph (3), the writ states, in part: "If You contend that full compliance with paragraph (2) is not possible within 60 days of service of the Writ because further environmental review is required by the California Environmental Quality Act (Pub. Res. Code, §§ 21000, et seq.), YOU ARE COMMANDED to file with the Court and serve on the parties, not later than 45 days after service of the Writ, a Statement identifying the additional review believed to be required and the applicable deadline(s) for completing such review under Title 14, Article 8 of the California Code of Regulations (Cal. Code Regs., tit. 14, §§ 15100, et seq.). Any party may file objections to this Statement within fourteen days of service."

[2] The court agrees with the City that certain delay associated with the bond motion cannot be attributed to the City. (Oppo. 6-8.) As summarized by the City, "[t]he Court had to adjudicate a number of novel issues before a bond could be set and, notably, after the Court's tentative ruling at the November 18, 2024 hearing on CHDF's June 17, 2024 Bond Motion, where the Court initially set a bond in the amount of \$1 million, CHDF and 600 Foothill wanted to further litigate these issues by taking the deposition of the City's expert and then filing sets of new papers thereafter." (Oppo. 6:16-20.) Further, if 600 Foothill believed that the City had a mandatory duty to post a bond before the court determined the amount, 600 Foothill arguably could have moved for fines or other relief under the HAA. (Gov. Code § 65589.5(k)(1)(B).) Regardless, because the court denies the motion for damages, the court need not resolve these issues.

The Motion re: TO RECOVER DAMAGES FOR CITY OF LA CAADA FLINTRIDGES FAILURE TO COMPLY WITH HOUSING ACCOUNTABILITY ACT APPEAL BOND REQUIREMENT filed by 600 Foothill Owner LP, a limited partnership on 08/28/2025 is Denied.

The Court's clerk shall provide notice.

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Certificate of Service is attached.