NO. S293593

IN THE SUPREME COURT OF CALIFORNIA

THE KENNEDY COMMISSION,

Petitioner,

v.

THE SUPERIOR COURT OF CALIFORNIA FOR THE COUNTY OF SAN DIEGO,

Respondent,

THE PEOPLE OF CALIFORNIA EX REL. ROB BONTA; THE CALIFORNIA DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT; THE CITY OF HUNTINGTON BEACH; CITY COUNCIL OF HUNTINGTON BEACH; AL ZELINKA,

Real Parties in Interest.

From A Writ of Mandate by the Court of Appeal for the Fourth District, Division One, Case Nos. D085237, D085238

After an Order Granting First Amended Petition for Writ of Mandate in the San Diego County Superior Court, Legacy Case No. 30-2023-01312235-CU-WM-CJC Hon. Katherine A. Bacal

Related Appeal Case No. D084749

ANSWER TO PETITION FOR REVIEW

---

*Erica Embree Ettinger (SBN 321865)
Sarah Reisman (SBN 294393)
Ryan M. Kendall (SBN 324714)
COMMUNITY LEGAL AID SOCAL
2101 N. Tustin Avenue
Santa Ana, CA 92702
Telephone: (714) 571-5282
eettinger@clsocal.org
sreisman@clsocal.org
rkendall@clsocal.org

Marc Callahan (SBN 156616)
Richard Walker (SBN 303974)
Hannah Poploskie (SBN 349745)
PUBLIC LAW CENTER
601 Civic Center Drive West
Santa Ana, CA 92701
Telephone: (714) 541-1010
mcallahan@publiclawcenter.org
rwalker@publiclawcenter.org
hpoploskie@publiclawcenter.org

Daniel A. Sasse (SBN 236234)
Danielle P. Richards (SBN 301557)
Kari G. Ferver (SBN 339799)
CROWELL & MORING LLP
3 Park Plaza, 20th Floor
Irvine, CA 92614
Telephone: 949.263.8400
Facsimile: 949.263.8414
DSasse@crowell.com
DRichards@crowell.com
KFerver@crowell.com

Ugochi Anaebere-Nicholson (SBN 234069)
Craig Castellanet (SBN 176054)
Michael Rawson (SBN 95868)
THE PUBLIC INTEREST LAW PROJECT
449 15th Street, Suite 301
Oakland, CA 94612
Telephone: (510) 891-9794
Facsimile: (510) 891-9727
uanaebere-nicholson@pilpca.org
ccastellanet@pilpca.org
mrawson@pilpca.org

Attorneys for Petitioner
THE KENNEDY COMMISSION

CERTIFICATE OF INTERESTED PARTIES

The undersigned certifies that this party previously filed a Certificate of Interested Entities or Persons in the Court of Appeal in this case and that there have been no changes to the information contained in that certificate.

The undersigned further certifies that there are no interested entities or persons that must be listed pursuant to California Rules of Court, rule 8.488.

Dated: November 10, 2025

COMMUNITY LEGAL AID SOCAL

By: Erica Embree Ettinger

Erica Embree Ettinger

Attorney for Petitioner
The Kennedy Commission

TABLE OF CONTENTS

Page

TABLE OF AUTHORITIES

Page(s)

Cases

Statutes

State Rules

Regulations

INTRODUCTION

Petitioners the City of Huntington Beach and the City Council of Huntington Beach (collectively, "Huntington Beach") fail to establish any of the grounds for review provided in California Rules of Court, rule 8.500(b). The Petition for Review ("Petition") should therefore be denied.

The underlying action arises from Huntington Beach's undisputed failure to adopt a revised housing element, as the law required it to do more than four years ago.[1] The People of California ex rel. Rob Bonta, Attorney General, the California Department of Housing and Community Development (collectively, the "State"), and Intervenor The Kennedy Commission (the "Commission") petitioned for writs of mandate compelling Huntington Beach to adopt a compliant housing element. The trial court granted the State's petition and, as part of that ruling, held that Article 14 of Title 7, Division 1, Chapter

[1] Granting review without the required showing would run counter to the Legislature's directive that the courts are to expeditiously resolve a city's failure to adopt a compliant housing element. (See Gov. Code, § 65752 [requiring calendar preference to any legal action challenging a housing element]; Gov. Code § 65753, subd. (b) [requiring hearing be held within 120 days of Petitioner's request]; Gov. Code, § 65754(a) [requiring City to come into compliance within 120 days of order].) It would also reward the very conduct that the Court of Appeal warned against: "dilatory litigation tactics to avoid compliance with the[] duty to adopt a general plan with a compliant housing element—largely without immediate repercussions." *(Kennedy Com. v. Superior Ct.* (2025) 114 Cal.App.5th 385 [337 Cal.Rptr.3d 67, 85–86], review filed (Oct. 20, 2025), petn. for rehg. denied, petn. for review pending.)

3 of the Government Code ("Article 14") applies to charter cities such as Huntington Beach. However, the trial court's order failed to include remedies required by Article 14: a 120-day time limit under Government Code section 65754, subdivision (a),[2] for Huntington Beach to bring its housing element into compliance; and provisional relief pursuant to section 65755, subdivision (a), limiting Huntington Beach's authority over permitting and zoning until it has done so. The Commission and the State each sought a writ of mandate from the Court of Appeal requiring the trial court to impose these statutorily mandated remedies. The Court of Appeal consolidated the petitions and issued an Order to Show Cause why the writs should not be granted.

In a unanimous opinion authored by Presiding Justice McConnell, the Fourth District, Division One, held that Article 14 applies to charter cities, including Huntington Beach, and that the trial court therefore erred in omitting the 120-day compliance deadline and one or more provisional remedies from its order as required by Article 14. (*Kennedy Com., supra,* 337 Cal.Rptr.3d 67.) Accordingly, the Court of Appeal issued a peremptory writ of mandate directing, inter alia, the trial court to enter a new order that includes the 120-day compliance deadline required by section 65754 and provisional relief as mandated by section 65755. (*Id.* at p. 93.)

Huntington Beach's Petition for Review of the Court of Appeal's decision should be denied. Huntington Beach presents

[2] All subsequent statutory references are to the Government Code unless otherwise indicated.

three issues for review in its Petition, none of which establish that review is "necessary to secure uniformity of decision or to settle an important question of law"—the only standard for review Huntington Beach argues applies. (Cal. Rules of Court, rule 8.500(b)(1).)[3]

First, Huntington Beach challenges the Court of Appeal's holding that Article 14 applies to charter cities. Yet it does not cite a single conflicting opinion that would require this Court to secure uniformity among the courts or settle an important question of law. The Court of Appeal's opinion is in accord with a uniform body of case law that recognizes Article 14 applies to charter cites,[4] and the Legislature's express recognition that it does so.[5] This issue does not meet the standard for review.

Second, Huntington Beach argues that pending CEQA-related issues preclude the Court of Appeal from ordering the adoption of a compliant housing element. This argument is not fit for review. The trial court rejected Huntington Beach's CEQA arguments when it granted the State's petition for a writ of mandate ordering Huntington Beach to adopt a compliant housing element. Huntington Beach did not challenge this

---

[3] Huntington Beach cites California Rules of Court, rule 8.500(b)(2), which provides for Supreme Court review "[w]hen the Court of Appeal lacked jurisdiction." (Petn. at p. 10.) However, nowhere in its Petition does it argue that the Court of Appeal lacked jurisdiction in the writ proceeding below.

[4] See, e.g., *Garat v. City of Riverside* (1991) 2 Cal.App.4th 259, 303–304, disapproved on other grounds by *Morehart v. Cty. of Santa Barbara* (1994) 7 Cal.4th 725, 743, fn. 11.

[5] Section 65009.1, subdivision (e)(2).

rejection in the writ proceeding before the Court of Appeal, instead expressly reserving its challenge to these rulings for direct appeal. Indeed, Huntington Beach did not challenge the trial court's underlying order that it must adopt a housing element. To the contrary, Huntington Beach acknowledged that "[t]he [trial] court ruled, *unremarkably*, that [Huntington Beach] must adopt a housing element." (*Kennedy Comm. v. Superior Ct., City of Huntington Beach, et al.*, 4th App. District, Div. 1, Case No. D085237, Return to Petns. for Writ of Mandate (filed May 5, 2025) ("Return") at p. 15, emphasis added.) Thus, the Court of Appeal did not address either Huntington Beach's CEQA arguments or the trial court's ruling that Huntington Beach must adopt a housing element, and this Court should do the same pursuant to California Rules of Court, rule 8.500(c)(1). (Rule 8.500(c)(1) ["[T]he Supreme Court normally will not consider an issue that the petitioner failed to timely raise in the Court of Appeal."].) Moreover, Huntington Beach does not establish that this issue otherwise would meet the standard for review. Review of this issue should therefore be denied.

Lastly, Huntington Beach fails to identify any ground for review of its argument that the Court of Appeal should have abstained from ruling that section 65009.1, subdivision (e)(2) did not violate the Home Rule Doctrine of the California Constitution. It was Huntington Beach itself that raised the argument that "Section 65009.1 unconstitutionally abrogates the Home Rule Doctrine" before the Court of Appeal.[6] The Court of

[6] Return at pp. 65–68.

Appeal simply responded to the argument raised by Huntington Beach and narrowly limited its analysis to only the applicable subdivision of Section 65009.1. Review of this issue should be denied.

Because Huntington Beach does not establish any of the standards for review, the Court should deny its Petition.

REASONS WHY THE PETITION SHOULD BE DENIED

The Petition fails to meet any of the grounds for review. Review may be granted on four grounds:

> (1) When necessary to secure uniformity of decision or to settle an important question of law; (2) When the Court of Appeal lacked jurisdiction; (3) When the Court of Appeal decision lacked the concurrence of sufficient qualified justices; or (4) For the purpose of transferring the matter to the Court of Appeal for such proceedings as the Supreme Court may order.

(Cal. Rules of Court, rule 8.500(b)(1)–(4).) None of the three issues Huntington Beach presents for review, addressed in turn below, satisfy any of these grounds. The Petition should therefore be denied.

I. The Court of Appeal's Holding that Article 14 Applies to Charter Cities Is Consistent with Prior Precedent and Does Not Provide a Basis for Review.

Huntington Beach fails to establish that the Court of Appeal's holding that Article 14 applies to charter cities—which is uncontroversial and consistent with other case law—merits review. (Cf. Cal. Rules of Court, rule 8.500(b)(1).)

The Court of Appeal's holding is consistent with prior

decisions that treat Article 14 as applicable to actions against charter cities. For example, in *Garat* the Court of Appeal recognized that provisions of Article 14 "serve as the *primary* judicial remedy" to address shortcomings in general plans and concluded that those provisions apply in an action against a charter city. (*Garat*, *supra*, 2 Cal.App.4th at pp. 303–304.)[7]

The Court of Appeal below relied upon these prior consistent decisions. (*Kennedy Com.*, *supra*, 337 Cal.Rptr.3d at pp. 84–86.) It also conducted an in-depth analysis of the statutory text,[8] the legislative intent,[9] prior case law, and the recent legislative declaration of existing law that Article 14 applies to charter cities.[10] (*Kennedy Com*, *supra*, 337 Cal.Rptr.3d at pp. 81–91.) None of that analysis pointed to any contradictory

---

[7] See also *The Kennedy Com. v. City of Huntington Beach* (2017) 16 Cal.App.5th 841, 859 ("according to [Article 14], [the] City [of Huntington Beach] should have been granted time to amend its housing element" if its adoption of a specific plan had caused its housing element to violate state law); *Denham, LLC v. City of Richmond* (2019) 41 Cal.App.5th 340, 353–356 ("the legislatively prescribed remedy of section 65754" was appropriate where a voter initiative created inconsistencies with a charter city's general plan).

The Court of Appeal's ruling is also consistent with its previous rulings in the case. (*Kennedy Com.*, *supra*, 337 Cal.Rptr.3d at pp. 78–79.)

[8] *Id.* at pp. 81–85.

[9] *Id.* at pp. 85–86.

[10] See section 65009.1, subdivision (e)(2) ("The remedies in Article 14 (commencing with Section 65750) of Chapter 3 apply to actions against all cities, including charter cities, to enforce the requirements of Section 65585 . . . *This paragraph is declaratory of existing law*." [italics added]).

precedent, nor does Huntington Beach cite any in its Petition.

Instead, Huntington Beach surprisingly contends that the Court of Appeal's holding on Article 14 is unnecessary in light of section 65009.1, which it mischaracterizes as "an alternative, comprehensive enforcement path that reaches charter cities." (Petn. at pp. 11–12.)[11] The City does not explain why that satisfies the standards for this Court's review and it ignores the fact that the Court of Appeal's holding was necessary to the resolution of the Commission's petition. Indeed, the City admitted below that "the central issue in this case is whether Article 14 applies to a Charter City." (Return at p. 38.)

Huntington Beach's Petition ignores the uniform precedent and fails to identify any conflicting case law. Its argument raises no basis for this Court's review.

II. Huntington Beach's CEQA Arguments Are Not Properly Before This Court and Do Not Provide a Basis for Review.

Huntington Beach also fails to establish that review should be granted on the basis that pending CEQA issues precluded the Court of Appeal from directing it to adopt a housing element. (See Petn. at pp. 2, 7, 15–17.) The Court should decline to

[11] Section 65009.1 provides new, distinct remedies that the State can seek under narrow circumstances to enforce housing element law. These new remedies are only available to the State, *not* to third parties like the Commission. (See § 65009.1, subd. (a).) Section 65009.1 remedies supplement, and do not replace, existing remedies. (§ 65009.1, subd. (d)(1).) They do "not limit or affect" the availability of Article 14 remedies to non-State parties, like the Commission. (§ 65009.1, subd. (e)(1)).

entertain this argument because Huntington Beach failed to raise its CEQA contentions, or otherwise challenge the merits of the trial court's order compelling it to adopt a housing element, in the proceeding below. (Cal. Rules of Court, 8.500(c)(1).) Indeed, it admitted the order was "unremarkabl[e]." (Return at p.15.) In any event, Huntington Beach has not shown that its concern with sequencing raises any issues of uniformity of decision or important questions of law that need to be settled.

A. Huntington Beach's CEQA arguments are not properly before this Court.

Huntington Beach asserts there are CEQA-related issues still pending before the trial court and that the Court of Appeal therefore erred in directing Huntington Beach to adopt a housing element. (See Petn. at pp. 2, 7.) This assertion is not accurate and ignores that its CEQA-related arguments were neither presented by Huntington Beach nor ruled on by the Court of Appeal and are therefore not fit for review by this Court.

Huntington Beach contends that its CEQA arguments are still pending before the trial court. While the trial court has not yet disposed of Huntington Beach's cross-complaint, the Petition fails to disclose that the trial court already rejected the CEQA arguments as defenses to the State's petition for a writ of mandate. In unsuccessfully opposing the writ before the trial court, Huntington Beach argued that requiring it to adopt a compliant housing element would violate CEQA and compel the City Council to make an objectionable and false Statement of Overriding Considerations. (Commission's appx., Ex. 23 [Exhibit

A to Order Granting First Amended Petn. for Writ of Mandate], at pp. 315–316.) The trial court rejected these arguments when it granted the State's writ petition. (Commission's appx., Ex. 23 [Exhibit A to Order Granting First Amended Petn. for Writ of Mandate], at pp. 315–316; see also *Kennedy Com.*, *supra*, 337 Cal.Rptr.3d at p. 80 [noting the trial court's finding that "the City failed to establish that its adoption of a revised sixth cycle housing element would violate CEQA"].)

Of relevance here, Huntington Beach admitted in its Return that the trial court's order directing the adoption of a housing element was "unremarkabl[e]," and it did not present any challenge to the trial court's underlying order that it must adopt a housing element in the writ proceedings. (Return at p.15.) In particular, Huntington Beach declined to defend the merits of its CEQA arguments in the writ proceedings before the Court of Appeal. In its Return to the Petitions, Huntington Beach asserted its CEQA contentions were "not raised in the petitions and [] not invited by the Court" and so it was "not discuss[ing]" them in its Return to the writ petitions. (*Id.* at pp. 29–30.)

Instead, Huntington Beach purported to reserve its CEQA issues for its direct appeal. (*Id.* at p. 20 ["real parties urge the Court that any disposition of these petitions be fashioned so as not to prejudice" issues it intended to raise on appeal, including whether the State's remedy can be squared with CEQA]; *id.* at pp. 30–31 [the issue "will be briefed in the City's direct appeal".) That appeal was later dismissed by the Court as taken from a

non-appealable interlocutory order. (*People of California ex rel. Rob Bonta, et al., v. City of Huntington Beach, et al.*, 4th App. Dist., Div. 1, Case No. D084749.) Huntington Beach has not sought review of this dismissal.

As a result, the Court of Appeal has not considered the merits of this case. The Court of Appeal's ruling on the writ petitions contains no discussion of the merits, including of the CEQA arguments. In fact, the Court was clear that appellate review of the merits remains available after final judgment. It clarified that its opinion is not "meant to foreclose future appellate arguments" that pertain to the trial court's decision on the State's writ cause of action, and that "parties may present such arguments should they choose to appeal the ensuing final judgment." (*Kennedy Com.*, *supra*, 337 Cal.Rptr.3d at p. 91, fn. 19; *id.* at p. 92, fn. 21.)

The merits of the trial court's finding of liability, including its adverse determinations on Huntington Beach's CEQA arguments, are not properly before this Court. This Court should therefore decline review. (Cal. Rules of Court, rule 8.500(c)(1) ["As a policy matter, on petition for review the Supreme Court normally will not consider an issue that the petitioner failed to timely raise in the Court of Appeal."]; *Vasilenko v. Grace Family Church* (2017) 3 Cal.5th 1077, 1097 [declining to reach issue not decided by Court of Appeal].)

B. Huntington Beach's concern with sequencing does not raise any issues of uniformity of decision or important questions of law that need to be settled.

Even if CEQA was properly before this Court—which it is not—Huntington Beach has not established that there are any unsettled "sequencing" issues that necessitate review by this Court. Huntington Beach has not identified any lower courts that are grappling with CEQA in housing element litigation, let alone a conflict of authority. In the absence of such cases, Huntington Beach speculates that a split in authority *might* develop in the future if sequencing is not addressed. (See, e.g., Petn. at pp. 7, 14–15, 17.) The mere *speculation* of a hypothetical, future disagreement among the courts does not render this issue fit for review.

Moreover, the appropriate sequencing in this case is clear. The trial court granted the State's writ petition, and in doing so it rejected Huntington Beach's CEQA arguments that it had raised in its defense. (*Kennedy Com.*, *supra*, 337 Cal. Rptr.3d at p. 80.) As directed by the Court of Appeal, the trial court must now order the required remedies and expeditiously resolve Huntington Beach's Cross-Petition and the Commission's Petition. (*Id.* at p. 93.) Final judgment can then be entered and, should it choose to do so, Huntington Beach can then appeal and present its CEQA arguments to the Court of Appeal.

To the extent Huntington Beach is raising CEQA questions that *may* come up during its compliance with the trial court's future amended writ order issued pursuant to the Court of

Appeal's decision (Petn. at pp. 16–17), the issue is not ripe for Supreme Court review. In any event, the law is clear: CEQA "*does not* apply to any action necessary to bring its general plan or relevant mandatory elements of the plan into compliance with any court order or judgment under this article." (§ 65759, subd. (a), italics added.) Huntington Beach's sequencing argument does not serve as a basis for review here.

C. The recent legislative amendments to CEQA—and any future potential legislative action—are not relevant here.

Huntington Beach also appears to take the position that the Court of Appeal should not have acted because the Legislature is "actively revising" CEQA and the Housing Element Law. (Petn. at p. 6.)[12] Specifically, Huntington Beach, invoking Rule 8.500(b)(1) and (2) as grounds for review, argues that "[r]eview is warranted to secure uniformity and reinforce restraint while the Legislature continues to harmonize the

[12] The 2025 CEQA amendments are not relevant to the Court of Appeal's decision below because the Court did not address Huntington Beach's CEQA arguments. (See Part II.A, supra.) Nor are the 2025 CEQA amendments pertinent to this case. As the trial court correctly found, there is already an exemption for CEQA in Housing Element Law that is applicable to this case. (Commission's appx., Ex. 23 [Exhibit A to Order Granting First Amended Petn. for Writ of Mandate], pp. 315–316 [relying on Gov. Code, § 65584, subd. (g)]; see also Cal. Code Regs., tit. 14, § 15282, subd. (r) [restating CEQA exemption for regional housing needs determinations], *id.* at § 15283 [stating "CEQA does not apply to regional housing needs determinations"]; see also § 65759.) The Legislature did not disturb this exemption in passing the 2025 CEQA amendments.

statutory scheme." (Petn. at p. 20; *id.* at p. 10.) Huntington Beach does not cite any authority supporting the proposition that the possibility of future legislative action fulfills the requirements for Supreme Court review. Moreover, judicial restraint is not a jurisdictional issue, and Huntington Beach has not provided any other jurisdictional basis that supports review by this Court.

The Court of Appeal acted appropriately in deciding disputed matters within its jurisdiction. It was not required to abstain from ruling on Article 14 because the Legislature *may* act. A court's "function … is not to discuss the law as it may be in the future but to interpret the law which presently exists." (*People v. Superior Court (Carl W.*) (1975) 15 Cal.3d 271, 282.) Moreover, the Court of Appeal's decision is in line with the Legislature's recent declaration in section 65009.1 that Article 14 applies to charter cities. (§ 65009.1, subd. (e)(2).)[13]

Huntington Beach has shown no basis for why review by this Court, which would create further delay in tension with legislative intent,[14] is warranted.

---

[13] The Legislature clarified that Article 14 remedies apply to charter cities—and did so under pre-existing law. (§ 65009.1, subd. (e)(2).) Huntington Beach would have this Court act in contravention of the current law.

[14] See footnote 1, supra (describing the Legislature's directive that the courts are to expeditiously resolve a city's failure to adopt a complaint housing element).

III. The Court's Narrow Constitutional Holding on Government Code Section 65009.1, Subdivision (e)(2), Invited by Huntington Beach, Does Not Provide a Basis for Review.

Huntington Beach's argument that the Court of Appeal should have abstained from ruling that section 65009.1, subdivision (e)(2) does not violate the Home Rule Doctrine of the California Constitution (Petn. at pp. 2, 12, 19) also fails to establish a ground for review.

Huntington Beach itself raised the constitutional issue below. Huntington Beach's Return to the petitions argued at length that "Section 65009.1 unconstitutionally abrogates the Home Rule Doctrine," and therefore, it should not be interpreted to apply to the underlying order. (Return at pp. 65–68.)

The Court of Appeal acted well within its authority when it considered the City's argument and reached the constitutional issue. The Court of Appeal has the power to reach constitutional issues, including those that were not litigated before the trial court or that were not fully developed before the Court.[15] (See, e.g., *Conservatorship of Delay* (1988) 199 Cal.App.3d 1031, 1035, fn. 3 ["issues may be raised for the first time on appeal when they involve pure questions of law or constitutional issues"].)

Huntington Beach cites no relevant authority supporting its argument that the Court of Appeal's consideration of the

[15] Section 65009.1 became effective during the pendency of the Court of Appeal writ proceedings. (See Cal. Rules of Court, rule 8.254 [contemplating the Court of Appeal's consideration of new authority].)

constitutional issue here merits this Court's review.[16] Two of the three cases it cites address the general principle "that a court . . . should endeavor to construe the statute in a manner which *avoids* any doubt concerning its validity." (*People v. Gutierrez*, (2014) 58 Cal.4th 1354, 1373; see also *Palermo v. Stockton Theaters* (1948) 32 Cal.2d 53, 59–60, 64–66.)[17] That is exactly what the Court of Appeal did in the proceeding below when it confirmed the statute to be constitutional. (*Kennedy Com.*, *supra*, 337 Cal.Rptr.3d at pp. 88-90.)

Moreover, the Court of Appeal exercised judicial restraint by issuing a narrow holding. The Court only addressed the relevant part of section 65009.1—instead of the entirety of the statute, as challenged by Huntington Beach. (*Kennedy Com.*, *supra*, 337 Cal.Rptr.3d at p. 88, fn. 17.) Moreover, the Court only addressed the portions of the home rule test disputed by the parties. (*Id.* at pp. 89–90 [assuming, without deciding, the first

---

[16] Huntington Beach asserts that it is disfavored for the Court of Appeal to make first-instance constitutional determinations on writ review. (Petn. at p. 18.) Their cited authority, *Powers v. City of Richmond* (1995) 10 Cal.4th 85, 113–114, does not support this contention. *Powers* addressed a legal issue raised during an appeal, not an appellate writ. Moreover, *Powers* recognized that courts *can* reach constitutional issues raised for the first time in the Court of Appeal. In *Powers*, the constitutionality of a statute was raised in the first instance during appellate review, in opposition to a motion to dismiss an appeal. (*Id.* at 90.) The Court of Appeal found the statute did not violate the Constitution, and this Court affirmed that decision. (*Id.* at 90, 113–114.)

[17] As discussed in footnote 16, supra, in the third case, *Powers*, *supra*, 10 Cal.4th at pp. 113–114, the Court determined the statute in question was constitutional.

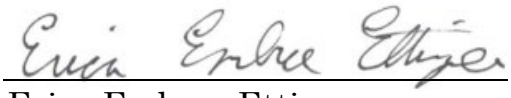
three prongs of the four-part home rule test].) This narrow decision, made in response to Huntington Beach's argument and addressing pure questions of law that require no development at the trial court, does not run afoul of any constitutional avoidance principles or merit review.

CONCLUSION

For the foregoing reasons, the Commission respectfully requests that this Court summarily deny the Petition.

Dated: November 10, 2025

COMMUNITY LEGAL AID SOCAL

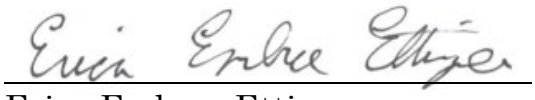
By: 
Erica Embree Ettinger

Attorney for Petitioner
The Kennedy Commission

CERTIFICATE OF WORD COUNT

Pursuant to rule 8.204, subdivision (c)(1) of the California Rules of Court, I hereby certify that the foregoing Answer to Petition for Review contains 4,009 words, including footnotes, but excluding the items excluded from the limit set forth in that rule. In making this certification, I have relied on the word count of the computer program used to prepare the brief.

Dated: November 10, 2025



Erica Embree Ettinger

PROOF OF SERVICE

Case Name: The People of California, et al., *Petitioners*, v. The Superior Court of California for the County of Orange, *Respondent,* The City of Huntington Beach, City Council of Huntington Beach, Al Zelinka*, Real Parties of Interest*

After a Writ of Mandate by the Court of Appeal for the Fourth District, Division One, Case Nos. D085237, D085238, San Diego County Superior Court, Legacy Case No. 30-2023-01312235-CU-WM-CJC; Hon. Katherine A. Bacal, Dept. C63; Related Appeal Case No. D084749

Supreme Court Case No.: S293593

I, Cynthia Dahl, declare as follows:

My business address is 3 Park Plaza, 20th Floor, Irvine, CA 92614-8505. I am over the age of eighteen years and not a party to this action.

On November 10, 2025, I served the foregoing **ANSWER TO PETITION FOR REVIEW** to the following individuals in this action as follows:

☒ **BY TRUEFILING E-SERVICE:** I served the document identified above by delivering a copy to True Filing for electronic service on the persons listed below.

Rob Bonta, Attorney General of California Daniel A. Olivas, Senior Assist. Atty General David Pai, Supervising Deputy Atty General Matthew T. Struhar, Deputy Atty General Thomas P. Kinzinger, Deputy Atty General 1300 I Street, Suite 125 Sacramento, CA 95814 Tel: (916) 210-7246; Fax: (916) 327-2319 Email: Matthew.Struhar@doj.ca.gov Thomas.Kinzinger@doj.ca.gov	Attorneys for The People of California ex rel. Rob Bonta, Attorney General, and the California Department of Housing and Community Development **E-served via TrueFiling**

Timothy M. Kowal Teddy T. Davis Ryan Merker Kowal Law Group, APC 2901 W. Coast Hwy, Ste. 200 Newport Beach, CA 92663 Tel: (949) 676-9989; Fax: (949) 676-9995 Email: Tim@KowalLawGroup.com	Attorneys for Real Parties in Interest City of Huntington Beach; City Council of Huntington Beach; and City Manager Al Zelinka **E-served via TrueFiling**
Michael J. Vigliotta, City Attorney 2000 Main Street, P.O. Box 190 Huntington Beach, CA 92648 Tel: (714) 536-5555; Fax: (714) 374-1590 Email: MVigliotta@surfcity-hb.org	Attorneys for Real Parties in Interest City of Huntington Beach; City Council of Huntington Beach; and City Manager Al Zelinka **E-served via TrueFiling**
Clerk of the Court Fourth District Court of Appeal Division One 750 B Street, Suite 300 San Diego, CA 92101	Case Nos. D085237 and D085238; related Case No. D084749 **E-served via TrueFiling**

☒ **BY FIRST CLASS MAIL:** I am employed in Orange County where the mailing occurred. I enclosed the document identified above in a sealed envelope or package addressed to the person listed below, with postage fully paid. I placed the envelope or package for collection and mailing, following our ordinary business practice. I am readily familiar with this firm's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service.

The Hon. Katherine A. Bacal Superior Court of San Diego Hall of Justice Third Floor, Dept. SD-63 330 W. Broadway San Diego, CA 92101	San Diego County Superior Court, Legacy Case No. 30-2023-01312235-CU-WM-CJC **Served via First Class Mail**

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

Executed on November 10, 2025, at Irvine, California.

Cynthia Dahl

Cynthia Dahl