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Clerk of the Superior Court
By: A. Yim, Deputy

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN DIEGO, HALL OF JUSTICE COURTHOUSE

THE PEOPLE OF CALIFORNIA EX REL.
ROB BONTA, AND THE CALIFORNIA
DEPARTMENT OF HOUSING AND
COMMUNITY DEVELOPMENT,

Petitioners and Plaintiffs,

THE KENNEDY COMMISSION,

Intervenor and Petitioner,

v.

THE CITY OF HUNTINGTON BEACH, A
MUNICIPAL CORPORATION; CITY
COUNCIL OF HUNTINGTON BEACH; AL
ZELINKA, in his official capacity as CITY
MANAGER OF HUNTINGTON BEACH;
AND DOES 1-50, INCLUSIVE,

Respondents and
Defendants.

Case No. 30-2023-01312235-CU-WM-CJC

**ORDER GRANTING PETITIONERS'
FIRST AMENDED PETITION FOR
WRIT OF MANDATE**

**(Gov. Code, §§ 65009.1, 65754, 65755,
subd. (a).)**

Dept.: C-63
Judge: Hon. Katherine A. Bacal
Trial Date: April 26, 2024
Action Filed: March 8, 2023

This Court considered the briefing and oral arguments on the petition of writ of mandate brought by Petitioners the People of California and the California Department of Housing and Community Development (“HCD”). Petitioners were represented by counsel, as were Intervenor-

1 Petitioner The Kennedy Commission and Respondents the City of Huntington Beach (the “City”),
2 the City Council of Huntington Beach, and Al Zelinka. In their First Cause of Action in the First
3 Amended Petition for Writ of Mandate, brought pursuant to Government Code Section 65751,
4 Petitioners sought an order compelling the City to bring its sixth cycle housing element into
5 substantial compliance with the Housing Element Law¹ within 120 days.

6 On May 15, 2024, this Court determined that the City failed to update its housing element
7 in accordance with the Housing Element Law. That rendered the City’s housing element
8 inadequate. For that reason, this Court determined that the City is required to bring its housing
9 element into substantial compliance with the requirements of state law.

10 On June 20, 2024, this Court entered an order (the “June 20th Order”) granting Petitioners’
11 First Amended Petition for Writ of Mandate in part. ROA # 427.

12 On September 11, 2025, the Court of Appeal issued its opinion deciding *The Kennedy*
13 *Commission v. Superior Court*, Case No. D085237, and *The People of California ex rel. Rob*
14 *Bonta, et al. v. Superior Court*, Case No. D085238, in which it instructed this Court to vacate the
15 June 20th Order, enter a new order satisfying the requirements of Sections 65754 and 65755 of the
16 Government Code and to vacate that portion of the trial court’s October 15, 2024 order (the
17 “October 15th Order”) staying the superior court proceedings.

18 As a result, it is hereby adjudged and decreed that:

19 1. The June 20th Order is vacated except insofar as it required the City to substantially
20 comply with the Housing Element Law within 12 months of June 20, 2024. (See Gov. Code, §
21 65585, subd. (I)(1).) As this Court has already lifted its stay, nothing further needs to be done as
22 to the October 15th Order.

23 2. Petitioners’ First Amended Petition for Writ of Mandate is GRANTED as set forth in
24 this Court’s May 15, 2024 ruling.

25 3. A peremptory writ of mandate shall issue commanding the City to bring its housing
26 element into substantial compliance with the requirements of Housing Element Law as follows:

27 ¹ The Housing Element Law is Article 10.6 of Chapter 3 of Division 1 of Title 7 of the
28 Government Code. (See Gov. Code, §§ 65580-65589.11.) All further references to articles shall
be to articles within Chapter 3 of Division 1 of Title 7 of the Government Code.

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- a. Adopt, as part of the City’s general plan, a sixth cycle housing element revision that substantially complies with the Housing Element Law within 120 days of entry of this order. Gov. Code, § 65754, subd. (a). The draft sixth cycle housing element revision shall be subject to a 45-day HCD review in accordance with Government Code Section 65754, within the 120-day period. *Id.* The adopted sixth cycle housing element shall be subject to HCD review in accordance with Government Code Section 65585.
- b. Within 120 days of completing the actions required by subsection (a) above, in accordance with Government Code Sections 65754(b) and 65860, adopt all zoning code changes required for the City’s zoning ordinances to be consistent with the City’s housing element. Gov. Code, § 65754, subd. (b). Because the City failed to timely update its housing element in accordance with Section 65588, the City’s housing element shall remain out of compliance until it completes this requirement. See Gov. Code, § 65588, subd. (e)(4)(C)(iii).

4. State law requires this Court to “include, in the order or judgment rendered pursuant to Section 65754, one or more of [certain] provisions for any or all types or classes of developments for any or all geographic segments of the” the City until the City “has substantially complied with the requirements of Article 5[.]” Gov. Code, § 65755, subd. (a). Pursuant to Section 65755(a) and 65009.1(a)(3), the Court orders as follows, and these provisions shall take effect upon entry of this order:

- a. The City shall not enforce its planning and zoning laws to disapprove or reduce the density of any proposed housing development meeting the minimum densities under Section 65583.2 of the Government Code on the sites identified by the City to satisfy its obligation to accommodate its regional housing needs allocation (“RHNA sites”) for the sixth planning period. For the purposes of this order, the “RHNA sites” are those that the City identified for housing development in its adequate sites analysis of its draft housing element revision dated March 10, 2023, and heard by the Huntington Beach City Council on

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March 21, 2023, as part of Item 23-224. For any such project, the City may not, as a basis of disapproval or reducing density, issue findings of noncompliance, inconsistency, or nonconformity pursuant to Government Code Section 65589.5(j)(2).

- b. The Court, pursuant to Government Code Section 65755(a)(1), hereby suspends the City’s authority to permit any new development on any RHNA site that would not satisfy the minimum residential density requirements under Government Code Section 65583.2.
- c. The Court, pursuant to Government Code Section 65755(a)(2), hereby suspends the City’s authority to grant zoning changes or variances on any of the RHNA sites except as necessary to comply with section 3 of this order.
- d. The Court, pursuant to Government Code Section 65755(a)(3), hereby suspends the City’s authority to grant subdivision map approvals for any of the RHNA sites except as necessary to comply with section 3 of this order.
- e. The Court, pursuant to Government Code Section 65755(a)(4), hereby mandates that the City approve all applications it receives for builder’s remedy projects (as defined in the Housing Accountability Act) within 60 days of submittal of the application if the development contains 150 or fewer units and within 90 days of the submittal of the application if the development contains more than 150 units, if those projects satisfy the objective development standards and affordability requirements for builder’s remedy projects in the Housing Accountability Act, unless the City can make one of the findings specified in Government Code Section 65589.5(d)(2)-(4). Failure to adhere to the timelines in this paragraph will result in the project being deemed approved.
- f. The Court, pursuant to Government Code Section 65755(a)(4), hereby mandates the review, within 60 days of submittal of the application if the development contains 150 or fewer units and within 90 days of the submittal of the application if the development contains more than 150 units, and approval of all

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applications it receives for residential housing development on any of the RHNA sites, so long as those projects meet the minimum density and affordability requirements necessary for by-right treatment under Government Code Section 65583.2(h), unless the City can make the findings specified in Government Code Section 65589.5(j)(1). Failure to adhere to the timelines in this paragraph will result in the project being deemed approved.

5. This order shall not operate to enjoin the approval of any housing development meeting the requirements of Government Code Section 65754.5(a). This order shall not operate to enjoin the development of any housing development that can proceed without impacting the ability of the City to comply with section 3 of this order.


6. Respondents must file a return on the writ of mandate within 30 days of completing the actions required under section 3 of this order. The return shall demonstrate that the City has brought its housing element into substantial compliance with the Housing Element Law, and that it has brought its zoning code into compliance with the City’s sixth cycle housing element.

7. No undertaking shall be required by Petitioners to make this order effective. (See Code Civ. Proc., § 529, subd. (b)(3).)

8. This order requires the City to bring its housing element into compliance with a court order under Article 14. Accordingly, as provided in Government Code Section 65759, the California Environmental Quality Act (“CEQA”) does not apply to the City’s actions necessary to comply with section 3 of this order. To the extent the City conducts any environmental review in accordance with CEQA, it shall still comply with the timelines set forth in section 3 of this order.

IT IS SO ORDERED.

Dated: 12/19/25



The Hon. Katherine A. Bacal
San Diego Superior Court