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Case No. B333151

IN THE COURT OF APPEAL
OF THE STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT
DIVISION ONE

CALIFORNIANS FOR HOMEOWNERSHIP, INC.,

Petitioner and Respondent on Appeal,

v.

CITY OF LA CAÑADA FLINTRIDGE,

Respondent and Appellant.

On Appeal from the Superior Court for the State of California
Los Angeles County, Case No. 23STCP00699
Hon. James C. Chalfant

**THE PEOPLE’S, EX REL. ATTORNEY GENERAL ROB BONTA,
AND THE CALIFORNIA DEPARTMENT OF HOUSING AND
COMMUNITY DEVELOPMENT’S
AMICUS CURIAE BRIEF**

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APPELLANT/ City of La Cañada Flintridge PETITIONER: RESPONDENT/ Californians for Homeownership, Inc. REAL PARTY IN INTEREST:	
CERTIFICATE OF INTERESTED ENTITIES OR PERSONS	
(Check one): ☒ INITIAL CERTIFICATE ☐ SUPPLEMENTAL CERTIFICATE	
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1. This form is being submitted on behalf of the following party (name): People, ex rel. AG Bonta; Ca. Dept. Housing & Cmty. Dev.

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b. ☐ Interested entities or persons required to be listed under rule 8.208 are as follows:

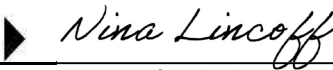
Full name of interested entity or person	Nature of interest (Explain):
(1)	
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☐ Continued on attachment 2.

The undersigned certifies that the above-listed persons or entities (corporations, partnerships, firms, or any other association, but not including government entities or their agencies) have either (1) an ownership interest of 10 percent or more in the party if it is an entity; or (2) a financial or other interest in the outcome of the proceeding that the justices should consider in determining whether to disqualify themselves, as defined in rule 8.208(e)(2).

Date: November 25, 2024

Nina Lincoff
 (TYPE OR PRINT NAME)


 (SIGNATURE OF APPELLANT OR ATTORNEY)

**APPLICATION FOR LEAVE TO FILE AMICUS
CURIAE BRIEF**

TO THE HONORABLE FRANCES ROTHCHILD,
PRESIDING JUSTICE OF THE COURT OF APPEAL,
SECOND APPELLATE DISTRICT, DIVISION ONE:

The California Department of Housing and Community Development (“HCD”), respectfully requests permission to file the accompanying brief as amicus curiae in support of petitioner and respondent on appeal Californians for Homeownership, Inc., on the history, interpretation and application of the at-issue statutory provisions, and the housing law context in which this case arises. The People, ex rel. Attorney General Rob Bonta, may file this brief pursuant to California Rule of Court 8.200(c)(7).

The Attorney General and HCD are charged with the enforcement of state housing laws as set forth under California Government Code section 65585, subdivision (j). The Attorney General, on behalf of the People, is also obligated under the California Constitution to take whatever legal action is necessary to ensure that the laws of the state are uniformly and adequately enforced. (Cal. Const. art. V, § 13; Gov. Code, § 65585, subd. (n).) HCD is the state agency responsible for ensuring local government compliance with the Housing Accountability Act and Housing Element Law, statutory schemes integral to any attempt to ensure sufficient and just housing across the state. (Health & Saf.

Code, § 51252; Gov. Code, § 65585, subds. (j), (l).)

Consequently, the Attorney General and HCD have a direct interest in ensuring that City of La Cañada Flintridge ceases its repeated attempts to flout validly enacted state law.

The availability of decent housing for every Californian is an important goal of the Legislature and one of the highest priorities for the State. (Health & Saf. Code, § 50003.) To that end, HCD's mission is to preserve and expand safe and affordable housing opportunities and promote strong communities for all Californians. In addition to administering programs to provide safe affordable housing, HCD is a state agency that develops policies that support housing and community development and conducts research and analysis of California's housing markets and needs. HCD plays a critical role in the housing-planning process, which was designed to ensure that communities plan housing that meets the needs of everyone in California's communities. HCD has a vital interest in fulfillment of state housing goals, including through consistent and uniform application of the broad statutory scheme addressing housing needs in the State.

This amicus brief explains why the City of La Cañada Flintridge's attempts to circumvent Housing Element Law fail in the face of plain statutory meaning. HCD's experience with housing statutes, including their evolution and practical consequences, will assist the court, and HCD respectfully

requests that the court accept the proposed amicus curiae brief for filing. Likewise, the Attorney General's experience through his enforcement authority, will assist the court.

Respectfully submitted,

ROB BONTA

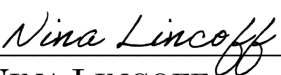
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November 25, 2024

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I. INTRODUCTION

California suffers from “a housing affordability and supply crisis of historic proportions,” which the Legislature addressed by passing a suite of housing element and housing accountability laws in recent years. (Gov. Code, § 65589.5, subd. (a)(2)(A).) The Legislature enacted such laws to halt actions by local governments that attempt to “deny, reduce the density for, or render infeasible housing development projects,” actions that the City of La Cañada Flintridge (“City”) has taken at almost every step during and following the most recent housing element revision and adoption cycle. (Gov. Code, § 65589.5, subd. (a)(2)(K).)

For over fifty years, California has required all local governments to draft and routinely update a housing element, just one component of a local jurisdiction’s general plan that identifies and analyzes housing needs as well as the goals and approaches that the local government will take to meet those needs. It is that long-standing requirement—that a local jurisdiction draft and routinely update a housing element—that the City now takes issue with, and attempts to manufacture a statutory conflict where none exists in an effort to avoid a mandatory rezoning consequence for its repeated failure to comply with state housing law.

This case, and two other cases related to the City’s violations of Housing Element Law in the last housing element revision and adoption cycle, originate from the City’s repeated failure to adopt a housing element certified as substantially compliant with state

law by the statutorily mandated deadline. The City missed the first deadline, October 15, 2021, and missed the second deadline a year later, October 15, 2022. Accordingly, the City was statutorily mandated to rezone to be deemed substantially compliant with state Housing Element Law. The City's failure occurred despite codified extensions afforded to the City that the City itself declined to take.

In this appeal, the City asks this court to find that the housing element it adopted on October 4, 2022 was substantially compliant with Housing Element Law, despite HCD and two trial courts finding to the contrary, and alternatively asks this court to excuse its failure based on a purported statutory conflict that does not exist. It makes these arguments in attempt to skirt the consequences of its non-compliance that flow from the so-called Builder's Remedy, a statutory provision that mandates approval of certain residential building permits when a local government fails to timely adopt a housing element in substantial compliance with Housing Element Law. (Gov. Code, § 65589.5, subd. (d)(5).) The City's arguments directly impact the viability of a project timely proposed under the Builder's Remedy by entities which are not parties to this case, a project that is the subject of two related appeals currently pending before this court.¹

¹ There are two related cases pending before this court. In *California Housing Defense Fund, et al. v. City of La Cañada Flintridge* (Super. Ct. L.A. County, Mar. 4, 2024, 23STCP02614), *appealed California Housing Defense Fund, et al. v. City of La Cañada Flintridge* (2024) Cal. 2d Dist. Ct. App., No. B338985, petitioner California Housing Defense Fund, and the Attorney
(continued...)

The City's misguided arguments do not excuse its non-compliance. First, there is no conflict between the specific provision of Housing Element Law requiring rezones to be completed before delinquent cities are deemed in substantial compliance with Housing Element Law, (see Government Code section 65588, subdivision (e)(4)(C)(iii)), and the general law requiring outdated zoning ordinances to be revised in conformity with a city's General Plan, (see Government Code section 65860, subdivision (c)). The former provision was enacted by the Legislature as a statutory consequence for local governments that failed to timely comply with Housing Element Law, such as the City in this case. The latter has applied broadly to general plan consistency for decades and relates to all elements in the general plan, including those outside the housing element process. Nothing in section 65860 undercuts the specific application of section 65588 in these circumstances. And even if 65860 applies in these circumstances, there are several ways in which the City could comply with both provisions, as other local jurisdictions have. To be clear: the City is manufacturing a statutory conflict

General and HCD as petitioners-intervenors, filed petitions for writ of mandamus below that the trial court granted, ordering the City to process a valid Builder's Remedy project in accordance with state law, and holding that the City's October 4, 2022 failed to substantially comply with state law. (*Ibid.*) In *600 Foothill Owner, LP v. City of La Cañada Flintridge* (Super. Ct. L.A. County, Mar. 4, 2024, 23STCP02575), the developer-applicant of the aforementioned Builder's Remedy project brought suit against the city and prevailed. That ruling has likewise been appealed by the City. *600 Foothill Owner, LP v. City of La Cañada Flintridge* Cal. 2d Dist. Ct. App., No. B335811.

where none exists to avoid the consequences of its repeated failure to comply with Housing Element Law.

Finally, the trial court correctly concluded that the one-year deadline to complete its rezoning applied because the housing element the City adopted on October 4, 2022, was not certified by HCD as substantially comply with housing element law. The trial court correctly held that, because “[t]he City failed to adopt a housing element certified by HCD by October 15, 2022, . . . the statutory bar under section 65588(e)(4)(C)(iii) applies. The City cannot be considered to be in substantial compliance until it has completed the rezoning required” (AA 1036.)

II. STATEMENT OF INTEREST

The People, ex rel. Attorney General Rob Bonta, and HCD, file this brief as amicus curiae to emphasize the importance of the housing laws the City asks this court to invalidate. The City, after years of failing to comply with validly enacted housing laws, has—thus far unsuccessfully—turned to the courts to avoid its mandatory statutory duties.

The Attorney General and HCD are parties to another related matter involving the City, *California Housing Defense Fund, et al. v. City of City of La Cañada Flintridge* Cal. 2d Dist. Ct. App., No. B338985, in which the same and similar issues have been raised. Accordingly, the Attorney General and HCD as amicus curiae address those issues in this matter which, if resolved in favor of the City, will negatively impact the work of the State and its citizens, law-abiding local governments, and

others to address California's exigent housing crisis, and to correct misrepresentations the City makes.²

III. THE CITY MANUFACTURES A STATUTORY CONFLICT TO AVOID ITS CLEAR DUTIES UNDER HOUSING LAW.

A. Government Code section 65588, subdivision (e)(4)(C)(iii) does not conflict with Government Code section 65860, subdivision (c).

The plain language of Government Code section 65588, subdivision (e)(4)(C)(iii), which requires a city that has failed to timely adopt a revised housing element certified by HCD to complete its rezoning before it can be deemed in substantial compliance with the law, does not conflict with the plain language of Government Code section 65860, subdivision (c), which discusses general plan compatibility with zoning ordinances. Any such argument by the City is simply an attempt to avoid a penalty by creating a conflict in statutory law where none exists.

The City manufactures a conflict between Government Code sections 65588, subdivision (e)(4)(C)(iii), and 65860, subdivision (c), by selectively reading each statute. (Opening Br. at pp. 29-36; Reply Br. at pp. 7-10.) To be clear, Government Code section 65588, subdivision (e)(4)(C)(iii) states only that:

A jurisdiction that adopts a housing element more than one year after the statutory deadline described in subparagraph (A) or (C) of paragraph (3) shall not

² The Attorney General and HCD do not oppose the motion filed by Californians for Homeownership, Inc. ("Californians") to dismiss this appeal as moot. Rather, the Attorney General and HCD submits this amicus brief to address the substantive issues raised by the City, should the court determine this appeal is not moot.

be found in substantial compliance with this article until it has completed the rezoning required by subparagraph (A) of paragraph (1) of subdivision (c) of Section 65583 and subdivision (c) of Section 65583.2.

(Gov. Code, § 65588, subd. (e)(4)(C)(iii).) This provision simply provides that a local jurisdiction will not be found to have a housing element in substantial compliance with state law until certain required rezonings are completed. HCD is the governmental agency with the authority to certify a jurisdiction's housing element as in substantial compliance with state law. (See Gov. Code, § 65585, subds. (b)(1), (d)-(f), (h), (i)(1)(B).)

On the other hand, Government Code section 65860, subdivision (c)(1) states only that:

In the event that a zoning ordinance becomes inconsistent with a general plan by reason of amendment to the general plan, or to any element of the plan, the zoning ordinance shall be amended within a reasonable time so that it is consistent with the general plan, as amended.

(Gov. Code, § 65860, subd. (c)(1).)

By its own plain text, Government Code section 65860, subdivision (c)(1) imposes a generic duty to update a zoning ordinance “within a reasonable time” any time a general plan is updated in a way that conflicts with the existing zoning ordinance. For example, if a city updates a general plan outside of the housing element cycle via a general plan amendment, it must perform relevant updates to any conflicting zoning ordinances within a reasonable time. A general plan consists of many different elements outside the housing element process:

land use, circulation, conservation, open-space, noise, safety, and environmental justice. (Gov. Code, § 65302.) There are numerous ways a general plan can be updated, which 65860 speaks to, outside of housing element cycle revisions: for example, any one of the other required elements of a general plan may be amended. (See Gov. Code, § 65860, subd. (c)(2).)

Nothing in that general obligation conflicts with or negates the much more specific obligation in section 65588, subdivision (e)(4)(C)(iii), to rezone within a year of updating a belated housing element revision, or suggests that a city's general plan must be deemed substantially compliant before that rezoning occurs. Section 65588 penalizes cities who miss their deadline to revise their housing element by requiring those cities perform required rezones *earlier* than Housing Element Law would otherwise require, and incentivizes them to do so by subjecting them to the Builder's Remedy until they comply. The City's reading of section 65860 would directly undercut those legislative aims: it would not only remove the Builder's Remedy penalty for cities that have updated their housing elements but not completed rezones, but also *slow down* the process rather than accelerate it by requiring a city to wait to adopt its rezoning ordinances. Interpreting section 65860 in that manner requires stretching that language to absurdity, particularly given the Legislature so clearly articulated the procedures for rezones attendant to required housing element updates in section 65588, subdivision (e)(4)(C)(iii).

Indeed, the City's argument relies on a logical fallacy: that rezoning subject to section 65588, subdivision (e)(4)(C)(iii), occurs in a vacuum, with no knowledge of or consistency with the statutorily mandated housing element revision and drafting process. The housing element process is, by its nature, iterative, and local governments themselves direct, revise and draft those elements. (Gov. Code, § 65585, subd. (a).) The City, subject to HCD review and comment, drafts and revises its housing element before adoption and, ideally, a substantial compliance certification from HCD. (*Id.* subds. (b)(1), (d), (f)(1)-(2).) That a city would adopt a rezoning ordinance pursuant to section 65588, subdivision (e)(4)(C)(iii), that does not comply with a recently or concurrently adopted housing element, and that is inconsistent with a city's prior general plan and housing element, does not make sense. That scenario requires this court to believe that a local government would go to such extreme ends to willfully violate state law.

Moreover, even if section 65860, subdivision (c) prevented a city from rezoning prior to performing a mandatory housing element update—which it does not—the statutes could *still* be harmonized. A city can adopt its rezones and its housing element revision concurrently. A city could also adopt a housing element that is provisionally certified by HCD, and then complete rezoning.

Almost every other jurisdiction affected has managed to comply with both Government Code section 65588, subdivision (e)(4)(C)(iii), and Government Code section 65860, subdivision (c).

For example, the cities of Alameda, Hillsborough, Calabasas, San Bruno, Larkspur, Calimesa, Indian Wells, Biggs, Los Gatos, Novato, Ross, Laguna Hills, San Pablo, Menlo Park, Pico Rivera, Placentia, Goleta, Yucaipa, and Sierra Madre all completed required rezones prior to or concurrent with the adoption of the housing element and prior to HCD’s review and finding of substantial compliance.

B. The City’s outdated cases are irrelevant.

Because the plain language of the at-issue statutory provisions does not conflict, the City misreads decades-old cases to manufacture a conflict. All are inapposite to the City’s arguments, and in fact support harmonization of those at-issue statutory provisions. For example, *Resource Defense Fund v. County of Santa Cruz* (1982) 133 Cal.App.3d 800, discusses general plan applicability and consistency with zoning, but also discusses a valid extension provided by a state agency to allow local governments time to adopt complete general plans while, at the same time, reviewing and approving development proposals. (*Id.* at pp. 804, 811.) As the court in *Resource Defense Fund* noted, a statutory exemption existed “from the various requirements that land uses be consistent with the general plan and its elements” provided that any approvals during the period of extension were “consistent with local policies and the element or elements for which an extension of time is sought.” (*Id.* at p. 811, citations omitted.)

Here, the rezonings required by section 65588, subdivision (e)(4)(C)(iii) are intended to accommodate—or be “consistent

with”—the City’s Regional Housing Needs Allocation (“RHNA”) allotment,³ a requirement of every one of the more than 500 local jurisdictions in the state. (Gov. Code, § 65583, subd. (a)(3).) In effect, rezoning pursuant to Housing Element Law compliance is an accommodation similar to the exemption contemplated in *Resource Defense Fund*.

Likewise, the City relies on dicta in *Buena Vista Gardens Apartments Association v. City of San Diego Planning Department* (1985) 175 Cal.App.3d 289, for the proposition that the lack of a substantially compliant housing element precludes the enactment of a zoning ordinance. (*Id.* at p. 310.) But the City takes that decision out of context. That case involved an association’s challenge to a development permit where the court ultimately found that one component of a housing element, relevant to the challenged permit, failed to substantially comply with state law. (*Ibid.*) The appellate court simply directed the lower court to refuse approval of the permit “until the defects in

³ The RHNA determination and allocation process is a collaboration between HCD and regional planning bodies known as Councils of Government (“COGs”). HCD and COGs consult and compare data regarding demographic trends, population, and housing conditions to determine how much projected housing is needed in a region to house projected populations across all income levels. (Gov. Code, § 65584.01.) COGs—or the California Department of Finance for cities and counties without a COG—then allocate regional housing needs to the local governments in their areas like the City. (Gov. Code, §§ 65584.04, 65584.05, 65584.06.)

the plan . . . [were] corrected to substantially conform to the statutory requirements.” (*Ibid.*)

The City similarly relies on dicta in *Gonzalez v. County of Tulare* (1998) 65 Cal.App.4th 777, and *Leshar Communications, Inc. v. City of Walnut Creek* (1990) 52 Cal.3d 531, for broad propositions regarding consistency of a general plan with zoning ordinances and permits (*Gonzalez, supra*, 65 Cal.App.4th at p. 785), and the invalidation of zoning ordinances that conflict with prior general plans (*Leshar Communications, Inc., supra*, 52 Cal.3d at pp. 544-546). Neither case prohibits what occurred here: mandatory rezoning following the City’s adoption of a housing element prior to certification of substantial compliance by HCD.

In sum, the City’s arguments are premised on a misreading of decades-old caselaw which provides little clarity on how the specific language of Government Code section 65588, subdivision (e)(4)(C)(iii), enacted just three years ago in 2021, interacts with the broad language in Government Code section 68650, which was enacted half-a-century ago. The court should accordingly reject such mischaracterizations outright.

C. Should the court decide Government Code sections 65588, subdivision (e)(4)(C)(iii) and 65860, subdivision (c) conflict, the later-enacted, more specific provision controls.

The City’s interpretation would effectively nullify the clear, specific, and unambiguous command in section 65588, subdivision (e)(4)(C)(iii), which the Legislature enacted only three years ago. (Stats. 2021, ch. 358, § 4.) Although the plain language of the at-issue statutes is clear and can be harmonized, in the

event that this court does find some ambiguity or conflict, the specific and later-adopted statute, Government Code section 65588, subdivision (e)(4)(C)(iii), controls.⁴ (See *State Dept. of Public Health v. Superior Court* (2015) 60 Cal.4th 940, 960-961 [“If conflicting statutes cannot be reconciled, later enactments supersede earlier ones [citation], and more specific provisions take precedence over more general ones.”]; *Bitner v. Dept. of Corrections & Rehabilitation* (2023) 87 Cal.App.5th 1048, 1060, 1062 [citations omitted] [“[In the event of a statutory conflict, a specific provision will control over a general provision” and “later enacted statutes prevail over earlier enacted statutes”]; *In re Brianna S.* (2021) 60 Cal.App.5th 303, 313 [“[A] specific statutory provision relating to a particular subject controls over a more general provision.”]; *Arbuckle-College-City Fire Protection Dist. v. County of Colusa* (2003) 105 Cal.App.4th 1144, 1155 [“It is a general rule of statutory interpretation that, in the event of statutory conflict, a specific provision will control over a general provision,”] citations omitted.)

It is a longstanding canon of statutory interpretation that “courts should construe all legislative enactments to give them some meaning” and that “a statute should not be interpreted so

⁴ The trial court in *California Housing Defense Fund* also noted that, “even assuming a conflict existed, [the City does] not explain why section 65860 would take precedence over section 65588, subdivision (e)(4)(C)(iii) under the specific circumstances presented here (i.e., a statutory bar to attaining substantial compliance with the Housing Element Law until rezoning is complete).” (*California Housing Defense Fund, supra*, No. 23STCP02614 at p. 19 n.19.)

as to render one part inoperative.” (*Rosado v. Wyman* (1970) 397 U.S. 397, 415; *Mountain States Tel. & Tel. Co. v. Pueblo of Santa Ana* (1985) 472 U.S. 237, 249.) Accordingly, should the court find a statutory conflict, Government Code sections 65588, subdivision (e)(4)(C)(iii) and 65860, subdivision (c) should be harmonized to allow the later-enacted, specific provision to stand.

IV. THE CITY DECLINED TO AVAIL ITSELF OF STATUTORY EXTENSIONS TO REZONE, ONLY TO ATTEMPT A POST HOC RATIONALIZATION OF ITS FAILURES.

The City continues to incorrectly assert that it had a housing element in substantial compliance with state law as of October 4, 2022. The City now asks this court, in this case, to find that its October 4, 2022 housing element substantially complied with state law, in contravention of HCD’s findings. Over the years-long housing element revision process, HCD conducted a detailed and thorough analysis of the factual circumstances presented by the City in its draft housing elements, and in turn provided the City with specific revisions at numerous different instances. (See AA 19-30, 31-34.) The trial court in this case—and in two other cases—carefully reviewed those complex issues, the City’s actions, HCD’s review and responses, and the City’s responses. A related action is currently before this court on this same issue (although briefing has yet to begin in that case). The City grossly misrepresents the timeline and HCD’s findings during the housing element process, and nevertheless cannot support the assertion that its October 4, 2022 housing element was in substantial compliance with state law.

The City was required to adopt a housing element in substantial compliance with Housing Element Law by October 15, 2021. (AA 19.) On October 6, 2021, just days before its deadline, the City submitted the first version of its housing element to HCD for review. (See *ibid.*) On December 3, 2021, HCD informed the City that the draft would require significant revisions in order to substantially comply with Housing Element Law. (*Id.* at 19-30.) HCD identified fourteen areas of the first version of the City’s draft housing element that required specific programmatic revisions, organized into three broad categories: housing needs, resources, and constraints; housing programs; and public participation. (*Ibid.*) Examples of the specific failures of the first version include, but are not limited to, that it failed to comply with Affirmatively Furthering Fair Housing (“AFFH”) requirements, including that the element lacked a site inventory analysis identifying potential sites for housing development distributed in a manner to affirmatively further fair housing. (*Ibid.*, citing Gov. Code, § 65583, subd. (c)(10)(A)].) The first version also contained an inadequate site inventory of the City’s vacant and underutilized sites to meet the City’s RHNA determination. (*Ibid.*) The draft element also failed to “analyze any potential constraints on housing for persons with disabilities” (*Ibid.*)

The City did not adopt its revised housing element until almost a year later, waiting until October 4, 2022, to adopt a revised draft housing element. (AA 31-34.) But, in violation of Government Code section 65585, subdivision (f), the draft

housing element included neither the changes necessary to address HCD's findings nor written findings explaining why the City believed the draft element substantially complied with Housing Element Law. (*Ibid.*)

HCD reviewed the revised housing element and, on December 6, 2022, determined that the City was not in substantial compliance with Housing Element Law. (*Ibid.* [“additional revisions are necessary to fully comply with State Housing Element Law”].) HCD advised the City that the draft element failed to affirmatively further fair housing, in accordance with applicable law (*Ibid.*, citing Gov. Code, § 65583, subds. (c)(10)(A), (c)(5)); failed to include a complete and detailed inventory of land suitable and available for residential development in a manner consistent with its RHNA determination (*Ibid.*, citing Gov. Code, § 65583, subds. (a)(3), (c)(1)); and failed to describe the amendments the City would make “to remov[e] any associated fees which . . . constrain[] . . . housing for persons with disabilities” (*Ibid.*, citing Gov. Code, § 65583, subd. (c)(3)].) Because the City failed to adopt a housing element certified as in substantial compliance with state law by the October 15, 2022 deadline, the at-issue penalty in Government Code section 65588, subdivision (e)(4)(C)(iii), applied.

Fatally, the City was a beneficiary of extended deadlines afforded to only certain jurisdictions, yet *still* failed to timely

adopt a compliant housing element.⁵ (Gov. Code, § 65583.4.) The City could have benefited from a three-year extension to complete its rezonings, but it failed to submit its revised housing element in time to receive a substantial compliance certification.

On February 21, 2023, the City adopted its third revised housing element, which addressed most of HCD's deficiency findings, but as discussed above, the untimely adoption triggered a rezoning penalty. Two years after the City's housing element was due, on September 12, 2023, the City adopted a rezoning resolution, fulfilling its section 65588, subdivision (e)(4)(C)(iii) obligations. Nevertheless, for the two-year period between October 15, 2021 to November 17, 2023, the City was not in substantial compliance, and was subject to the relevant consequences.

V. CONCLUSION

The Attorney General and HCD respectfully request that this court affirm the trial court's judgment.

⁵ The City could have benefitted from an additional extension to complete rezonings granted to municipalities that are part of the Southern California Association of Governments ("SCAG"). Due to its failure to comply with Housing Element Law, however, the City missed the deadline to qualify for that extension. That extension was codified by the Legislature for only a select number of local governments.

Respectfully submitted,

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November 25, 2024

CERTIFICATE OF COMPLIANCE

I certify that the attached “Application to File Amicus Curiae Brief” and “Amicus Curiae Brief by the People, ex rel. Attorney General Rob Bonta, and the California Department of Housing and Community Development” uses a 13-point Century Schoolbook font and contain 4,859 words.

ROB BONTA

Attorney General of California



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Deputy Attorney General

Attorneys for Amicus Curiae

November 25, 2024

DECLARATION OF ELECTRONIC SERVICE

Case Name: **Californians v. LCF**
No.: **23STCP00699**

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar, at which member's direction this service is made. I am 18 years of age or older and not a party to this matter. I am familiar with the business practice at the Office of the Attorney General for collecting and processing electronic and physical correspondence. Correspondence that is submitted electronically is transmitted using the TrueFiling electronic filing system. Participants who are registered with TrueFiling will be served electronically.

On November 25, 2024, I electronically served the attached **THE PEOPLE'S, EX REL. ATTORNEY GENERAL ROB BONTA, AND THE CALIFORNIA DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT'S APPLICATION FOR LEAVE TO FILE AMICUS CURIAE BRIEF** by transmitting a true copy via this Court's TrueFiling system addressed as follows:

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DECLARATION OF ELECTRONIC SERVICE

Case Name: **Californians v. LCF**
No.: **23STCP00699**

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I declare under penalty of perjury under the laws of the State of California and the United States of America the foregoing is true and correct and that this declaration was executed on November 25, 2024, at Los Angeles, California.

J. Sissoy
Declarant

/s/ J. Sissoy
Signature

STATE OF CALIFORNIA California Court of Appeal, Second Appellate District	PROOF OF SERVICE STATE OF CALIFORNIA California Court of Appeal, Second Appellate District
Case Name: Californians for Homeownership, Inc. v. City of La Canada Flintridge	
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Lower Court Case Number: 23STCP00699	

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

11/25/2024

Date

/s/Joelma Sisso

Signature

Lincoff, Nina (348936)

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