

1 CALIFORNIA HOUSING DEFENSE FUND  
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8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
9 **FOR THE COUNTY OF CONTRA COSTA**

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

13 Petitioner,

14 v.

15 CITY OF PLEASANT HILL

16 Respondent.

Case No.

**VERIFIED PETITION FOR  
WRIT OF MANDATE**

[C.C.P. § 1085; Gov. Code §§ 65587, 65751]

17 Petitioner California Housing Defense Fund (“CalHDF”) alleges as follows:

18 1. California is in the midst of a “housing supply and affordability crisis of  
19 historic proportions.” Gov. Code § 65589.5(a)(2). That crisis is driven in major part  
20 by “activities and policies of many local governments that limit the approval of  
21 housing . . . .” Gov. Code § 65589.5(a)(1)(B).

22 2. As part of the Legislature’s effort to address this crisis, the law required  
23 cities in the Bay Area to adopt updated housing elements by January 31, 2023.

24 3. Pleasant Hill did not meet this deadline.

25 4. On behalf of the important public interest in the availability of housing,  
26 CalHDF seeks a writ compelling the City to adopt an updated housing element.  
27

28 **PARTIES**



1 previous generations. Families across economic strata are being forced to rent rather  
 2 than experience the wealth-building benefits of homeownership.<sup>1</sup> Many middle and  
 3 lower income families devote more than half of their take-home pay to rent, leaving  
 4 little money to pay for transportation, food, healthcare, and other necessities.<sup>2</sup> Unable  
 5 to set aside money for savings, these families are also at risk of losing their housing in  
 6 the event of a personal financial setback. Indeed, housing insecurity in California has  
 7 led to a mounting homelessness crisis.<sup>3</sup>

8 12. Beyond the human toll, California’s housing crisis harms the  
 9 environment. “[W]hen Californians seeking affordable housing are forced to drive  
 10 longer distances to work, an increased amount of greenhouse gases and other  
 11 pollutants is released and puts in jeopardy the achievement of the state’s climate  
 12 goals.” Gov. Code § 65584.

13 13. At the core of California’s affordable housing crisis is a failure to build  
 14 enough housing to meet demand. California’s Legislative Analyst’s Office estimates  
 15 that the state should have been building approximately 210,000 units a year in major  
 16 metropolitan areas from 1980 to 2010 to meet housing demand. Instead, it built  
 17 approximately 120,000 units per year.<sup>4</sup> Today, California ranks 49th out of the 50  
 18 states in existing housing units per capita.<sup>5</sup>

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20 <sup>1</sup> California Department of Housing and Community Development, *California’s*  
 21 *Housing Future: Challenges and Opportunities: Final Statewide Housing Assessment*  
 22 *2025* (2018), available at [http://www.hcd.ca.gov/policy-research/plans-](http://www.hcd.ca.gov/policy-research/plans-reports/docs/SHA_Final_Combined.pdf)  
 23 [reports/docs/SHA\\_Final\\_Combined.pdf](http://www.hcd.ca.gov/policy-research/plans-reports/docs/SHA_Final_Combined.pdf), at 18-19.

23 <sup>2</sup> *Id.* at 27.

24 <sup>3</sup> *Id.* at 3, 48-50.

25 <sup>4</sup> Legislative Analyst’s Office, *California’s High Housing Costs: Causes and*  
 26 *Consequences* (2015), available at [https://lao.ca.gov/reports/2015/finance/housing-](https://lao.ca.gov/reports/2015/finance/housing-costs/housing-costs.pdf)  
 27 [costs/housing-costs.pdf](https://lao.ca.gov/reports/2015/finance/housing-costs/housing-costs.pdf), at 21.

28 <sup>5</sup> McKinsey & Company, *A Tool Kit to Close California’s Housing Gap: 3.5*  
 29 *Million Homes By 2025* (2016), available at [https://www.mckinsey.com/~media/](https://www.mckinsey.com/~media/mckinsey/featured_insights/Urbanization/Closing_Californias_housing_gap/Closing-Californias-housing-gap-Full-report.ashx)  
 30 [mckinsey/featured\\_insights/Urbanization/Closing Californias housing gap/Closing-](https://www.mckinsey.com/~media/mckinsey/featured_insights/Urbanization/Closing_Californias_housing_gap/Closing-Californias-housing-gap-Full-report.ashx)  
 31 [Californias-housing-gap-Full-report.ashx](https://www.mckinsey.com/~media/mckinsey/featured_insights/Urbanization/Closing_Californias_housing_gap/Closing-Californias-housing-gap-Full-report.ashx), at document page 6.

1           14. California’s housing crisis has been building for decades. The  
2 Legislature has recognized that the crisis is driven, in part, “by activities and policies  
3 of many local governments that limit the approval of housing, increase the cost of  
4 land for housing, and require that high fees and exactions be paid by producers of  
5 housing.” Gov. Code § 65589.5(a)(1)(B).

6           15. Over the last five decades, the Legislature has increasingly sought to  
7 address the power imbalance at play in local housing policy. The most important  
8 state policy addressing the housing crisis is the Regional Housing Needs Allocation  
9 (“RHNA”) and housing element system.

10           16. The RHNA system is a process for assessing and allocating housing  
11 targets on a periodic basis, generally every eight years. Gov. Code § 65588. It starts  
12 with an assessment of statewide housing needs by the California Department of  
13 Housing and Community Development (“HCD”). The Department allocates the  
14 state’s anticipated housing needs on a region-by-region basis, at different levels of  
15 affordability, based on established criteria. Gov. Code §§ 65584.01, 65588. This  
16 need is then usually distributed to individual localities by a regional council of  
17 governments, as is the case in the Bay Area region. Gov. Code § 65584.05.

18           17. Once the allocations are final, each locality is tasked with developing an  
19 action plan (the housing element) to enact land use policies that will produce enough  
20 housing to meet its RHNA goals. Gov. Code §§ 65583, 65583.2. The housing  
21 element must provide an inventory of sites available for residential development and  
22 assess constraints and market realities that affect the likely development activity at  
23 those sites, including local land use regulations. Localities must make changes to  
24 their land use rules, including by rezoning land, if needed to enable housing sufficient  
25 to meet their RHNA goals. Gov. Code §§ 65583(c), 65583.2(h).

26           18. Each city submits a draft of its Housing Element to HCD for review and  
27 receives written findings. Gov. Code § 65585(b)(3). In its written findings, HCD  
28 makes a determination whether the draft housing element “substantially complies”

1 with the statutory requirements. Gov. Code § 65585(d). Prior to adoption of a  
2 housing element, a city must consider HCD’s findings and either amend its housing  
3 element accordingly or provide findings of its own as to why it believes the housing  
4 element is compliant despite HCD’s determination. Gov. Code § 65585(e), (f).

5 19. California is currently in the midst of the sixth statewide housing element  
6 update cycle. For cities in the Bay Area region, including Respondent, the sixth cycle  
7 covers an eight-year planning period starting January 31, 2023, and these cities were  
8 required to update their housing elements by that date. Gov. Code § 65588(e)(3).

9 20. A city without a compliant updated housing element is prohibited from  
10 using its general plan and zoning standards to reject certain housing development  
11 projects. *See* Gov. Code § 65589.5(d).

12 21. A city that does not adopt a compliant updated housing element within  
13 120 days of the due date is subject to accelerated rezoning under the housing element,  
14 once adopted. Gov. Code §§ 65583(c)(1)(A), 65583.2(c), 65588(e)(4)(C).

15 22. An interested party may bring an action under Code of Civil Procedure  
16 Section 1085 to determine whether a housing element conforms to the statutory  
17 requirements and to compel a city to adopt a compliant housing element. Gov. Code  
18 §§ 65587, 65751.

19 23. If a city’s housing element does not substantially comply with state law,  
20 a reviewing court must order the city to bring it into compliance within 120 days.  
21 Gov. Code § 65754(a). After adopting a housing element subject to such an order, the  
22 city must subsequently rezone to obtain consistency with the housing element within  
23 120 days. Gov. Code § 65754(b).

24 24. Additionally, the court must subject the city to penalties, which can  
25 include a suspension of all non-residential permitting and judicial approval of housing  
26 development projects. Gov. Code § 65755(a)(1), (4). The court can also grant this  
27 relief on an interim basis during the pendency of litigation. Gov. Code § 65757.  
28

## FACTS

25. The statutory deadline for Respondent to adopt a sixth cycle updated Housing Element was January 31, 2023.

26. Respondent has not adopted a sixth cycle updated housing element.

27. CalHDF is a non-profit organization that aims to address California's housing crisis, generally through impact litigation to support the development of and access to housing for families at all income levels.

28. CalHDF is currently engaged in a regionwide effort to enforce both the substantive requirements and the deadlines in state housing element law, for the sixth housing element update cycle. As part of this effort, it has contacted over 30 cities to address concerns about their compliance with state law.

29. For cities that have not yet adopted sixth cycle updated housing elements, CalHDF's approach involves contacting each city with a threat of litigation and an offer of compromise whereby CalHDF would agree to delay litigation in exchange for an acknowledgment by the city of certain state law penalties that apply due to its failure to timely adopt an updated housing element. In response, some cities have agreed to make such an acknowledgment, while others have declined.

30. On December 16, 2022, CalHDF contacted the Pleasant Hill City Council, City Attorney, and Community Development Director to threaten litigation and offer this compromise. No response was received.

## FIRST CAUSE OF ACTION

### **Writ of Mandate to Compel Compliance with Housing Element Law (Gov. Code §§ 65587, 65751; C.C.P. § 1085)**

31. CalHDF incorporates and realleges all of the foregoing paragraphs.

32. Under Government Code Section 65587, any interested party may bring an action to determine whether all or part of a Housing Element conforms to the statutory requirements.

33. Pursuant to Government Code Sections 65587 and 65751, an action to

1 challenge the legal adequacy of a housing element or compliance with housing  
2 element deadlines shall be brought under Code of Civil Procedure Section 1085.

3 34. CalHDF is an interested party for the purposes of these statutes.

4 35. Respondent’s deadline to adopt a sixth cycle updated housing element  
5 was January 31, 2023.

6 36. Because Respondent missed this deadline, its housing element does not  
7 substantially comply with state law and it is subject to an action under Government  
8 Code Sections 65587 and 65751.

9 37. CalHDF has no available administrative remedies.

10 38. CalHDF has no plain, speedy, or adequate remedy at law, other than the  
11 relief sought herein.

12 39. Accordingly, CalHDF is entitled to a writ of mandate.

13 **PRAYER**

14 WHEREFORE, Petitioner prays for relief as follows:

15 1. A writ of mandate directing Respondent to adopt a sixth cycle updated  
16 housing element pursuant to the schedule set forth in Government Code Section  
17 65754.

18 2. An injunction or order providing relief under Government Code Section  
19 65755.

20 3. A declaration that:

21 a. From February 1, 2023 until Respondent complies with the Court’s  
22 writ of mandate through the adoption of a housing element that  
23 substantially complies with state law, Respondent has not had a  
24 housing element that was revised in accordance with Government  
25 Code Section 65588, and Respondent’s housing element has not  
26 substantially complied with state law;

27 b. Respondent is required to complete all required rezonings proposed  
28 by the adopted, compliant housing element by the applicable time

1 periods under Articles 10.6 and 14 of Chapter 3 of Division 1 of  
2 Title 7 of the Government Code;

3 c. Respondent, until it adopts a compliant housing element, is not  
4 permitted to use the provisions in subdivision (d)(1) or (d)(5) of  
5 Government Code Section 65589.5 to disapprove a housing  
6 development project that qualifies for approval under subdivision  
7 (d) of that section—that is, a project in which either (A) at least 20  
8 percent of the total units shall be sold or rented to lower income  
9 households, as defined in Health and Safety Code Section 50079.5,  
10 or (B) 100 percent of the units shall be sold or rented to persons  
11 and families of moderate income as defined in Health and Safety  
12 Code Section 50093, or persons and families of middle income, as  
13 defined in Government Code Section 65008—or to condition the  
14 approval of such a project in a manner that renders it infeasible for  
15 development for the use of very low, low-, or moderate-income  
16 households, or an emergency shelter, including through the use of  
17 design review standards.

18 4. Costs of suit;

19 5. Attorneys' fees under Code of Civil Procedure Section 1021.5 and as  
20 otherwise allowed by law;

21 6. Such other and further relief as the Court deems just and proper.  
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Dated: February 02, 2023

Respectfully Submitted,  
CALIFORNIA HOUSING DEFENSE FUND



By \_\_\_\_\_  
Dylan S. Casey

Attorneys for Petitioner,  
California Housing Defense Fund

**VERIFICATION**

I, Dylan S. Casey, declare:

1. I am an employee of and hold the position of Executive Director at Petitioner California Housing Defense Fund, and am familiar with the matters discussed in the foregoing Petition.

2. I have read the Petition and know the contents thereof. The statements of fact therein are true and correct of my own knowledge.

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

Executed on February 2, 2023 at Alameda, California.



Dylan S. Casey

Executive Director, California Housing Defense Fund