

**SUPERIOR COURT OF CALIFORNIA,
COUNTY OF SAN DIEGO
CENTRAL**

MINUTE ORDER

DATE: 05/14/2026

TIME: 5:00 PM

DEPT: C-63

JUDICIAL OFFICER: KATHERINE A. BACAL

CLERK: Valerie Secaur

REPORTER/ERM: Not Reported

BAILIFF/COURT ATTENDANT: N/A

CASE NO: **30-2023-01312235-CU-WM-CJC** CASE INIT.DATE: 03/08/2023

CASE TITLE: **The People of California Ex Rel Rob Bonta vs. The City of Huntington Beach**

[IMAGED]

CASE CATEGORY: Civil

CASE TYPE: (U)Writ of Mandate: Writ of Mandamus - Other

HEARING TYPE: Ex Parte

MOVING PARTY:

RULING ON SUBMITTED MATTER

The Court having taken this matter under submission on 5/8/2026, now rules as follows:

The motion of Plaintiffs/Petitioners the People of California and the California Department of Housing and Community Development to impose civil penalties under Government Code section 65009.1(a)(1) is **GRANTED** as set forth below.

Preliminary Matters

Petitioners filed two requests for judicial notice. ROA ## 658, 690. Respondents/Defendants the City of Huntington Beach, City Council of Huntington Beach, and Al Zelinka (collectively the "City") objected to the one filed with the reply (ROA # 690) on the basis that new material should not be presented on a reply. ROA # 695. While that is generally true, new evidence can be considered if such evidence fills gaps created by the opposition. *Jay v. Mahaffey* (2013) 218 Cal.App.4th 1522, 1538. Such is the case here. The City also objects on relevancy grounds. In that regard, the Court takes judicial notice of the fact that Petitioners have sought civil penalties against other jurisdictions and not for any other purpose. Thus, the objections are overruled and judicial notice is granted. Evid. Code § 452(c), (h).

Discussion

Petitioners request the Court to impose the maximum amount of civil penalties under section 65009.1(a)(1). ROA # 657. (Petitioners' motion also originally requested penalties under section 65009.1(d)(2) but they acknowledge on reply that relief under subdivision (d)(2) is not presently available.)

Section 65009.1(a) imposes certain remedies for actions brought by the state or HCD to enforce the adoption of housing element revisions. Subdivision (a)(1) imposes a civil penalty of a minimum of \$10,000 per month up to a maximum of \$50,000 per month “for each violation, accrued from the date of the violation until the date the violation is cured.” Gov. Code § 65009.1(a)(1). These penalties “only apply when the local agency’s acts or omissions described in subdivision (a) are arbitrary, capricious, entirely lacking in evidentiary support, contrary to established public policy, unlawful, or procedurally unfair.” *Id.* § 65009.1(b).

The Court has already found that the City violated the Housing Element Law by refusing to adopt a housing element in accordance with the statute. ROA # 389 (Order dated 5/15/2024 concluding City’s housing element does not substantially comply with the housing element law). Petitioners have shown the penalties under section 65009.1(a) are applicable, as the City’s acts are contrary to public policy and unlawful.

While the Court did not find the City’s arguments persuasive that no penalties should be imposed, the arguments do factor into determining the appropriate amount of penalties. The Court notes that the purpose of section 65009.1 is “to ensure adequate remedies are available to ensure that state laws mandating streamlined, ministerial approvals related to housing development projects, and the timely adoption of housing element revisions, are promptly and faithfully followed.” Gov. Code § 65009.1(b).

Given this and the arguments presented, the Court imposes penalties in the amount of \$10,000 per month from the effective date of section 65009.1 (January 1, 2025) through May of 2026. The Court further imposes penalties at the rate of \$50,000 per month beginning June, 2026 until the City cures the violation. Penalties shall be deposited into the Building Homes and Jobs Trust Fund. Gov. Code § 65009.1(c)(1).

Although Petitioners also requested costs and attorney fees incurred under section 65009.1(a)(2), they did not provide any evidence to support such an award. Thus no fees or costs are awarded by this order.

Conclusion

For the reasons stated, Petitioners’ motion to impose civil penalties under Government Code section 65009.1(a)(1) is **GRANTED** as set forth in this order.

The Clerk to serve notice.

Katherine A. Bacal

Judge Katherine A. Bacal