SUPERIOR COURT OF CALIFORNIA,
COUNTY OF SAN DIEGO
CENTRAL

MINUTE ORDER

DATE: 06/30/2026 TIME: 3:00 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

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HEARING TYPE: Ex Parte
MOVING PARTY:

RULING ON SUBMITTED MATTER

The Court having taken this matter under submission on 6/12/2026, now rules as follows:

The People's special motion to strike ("anti-SLAPP motion") the second amended cross-petition for writ of mandate/cross-complaint for declaratory and injunctive relief ("SACP") is **GRANTED**. As a result, and as discussed at the hearing on this motion, the People's demurrer is taken off calendar as moot.

Preliminary Matters

Throughout this ruling, respondents/defendants are referred to collectively as the "City."

The City's unopposed request for judicial notice (ROA # 731) of Exhibit A is granted. Evid. Code § 452(h).

The City previously moved for discovery to oppose the anti-SLAPP motion, with a hearing date of February 6, 2026. ROA # 613. That hearing was vacated as moot at the request of the parties. ROA # 621. The City made no further request for discovery and opposed the anti-SLAPP motion on the merits. ROA ## 573, 729.

The People move to specially strike the SACP under CCP section 425.16. ROA # 370. Although the motion was originally filed as to the first amended cross petition, the parties agreed that the anti-SLAPP motion would be construed to address, instead, the SACP, with supplemental briefing authorized. ROA ## 677, 686.

The Court heard oral arguments on the anti-SLAPP motion on June 12, 2026, and took the matter under submission. ROA # 745. It now issues this ruling.

Discussion

The SACP alleges a single cause of action for a writ of mandate and declaratory and injunctive relief, asserting, in essence, that the Housing Element Law cannot override the California Environmental Quality Act ("CEQA") and the City should not be compelled to violate CEQA. ROA # 669.

Anti-SLAPP Motion

"Anti-SLAPP motions are evaluated through a two-step process. Initially, the moving defendant bears the burden of establishing that the challenged allegations or claims 'aris[e] from' protected activity in which the defendant has engaged. If the defendant carries its burden, the plaintiff must then demonstrate its claims have at least 'minimal merit.'" *Park v. Board of Trustees of Cal. State Univ*. (2017) 2 Cal.5th 1057, 1061 (citations omitted).

As an initial matter, the City argues that the People cannot meet prong one because the SACP is a compulsory cross-complaint not a SLAPP suit, citing *Kajima Engineering and Const., Inc. v. City of Los Angeles* (2002) 95 Cal.App.4th 921; *Third Laguna Hills Mutual v. Joslin* (2020) 49 Cal.App.5th 366; and *City of Cotati v. Cashman* (2002) 29 Cal.4th 69. Thus, it is important to understand what those cases actually say.

The *Kajima* court published its opinion "to emphasize" that a cross-complaint "is not subject to the anti-SLAPP statute *simply because* it may be viewed as an oppressive litigation tactic." *Kajima Engineering and Const., supra,* 95 Cal.App.4th at 924 (emphasis added). Instead, a lawsuit, including a cross-complaint, would be properly subject to an anti-SLAPP motion only if "its allegations arise from acts in furtherance of the right of petition or free speech." *Id.* The anti-SLAPP motion was denied because the moving party "wrongly focuse[d]" on the filing of the cross-complaint "as a supposed act of retaliation" without demonstrating that the cross-complaint alleged acts in furtherance of the "right of petition or free speech in connection with a public issue." *Id.*at 929.

The *Third Laguna Hills* court noted that "to some degree, every party that files a cross-complaint is suing because it is being sued." *Third Laguna Hills Mutual v. Joslin, supra.,* 49 Cal.App.5th at 369. However the anti-SLAPP motion was denied not because it was addressed to a cross-complaint but because the cross-complaint arose from the cross-defendant's alleged tortious acts and not from the cross-defendant's "protected act of filing a complaint." *Id.*

Most importantly is what the California Supreme Court said in *City of Cotati*: "The anti-SLAPP statute, itself, treats complaints identically with cross-complaints." *City of Cotati v. Cashman, supra,* 29 Cal.4th at 77. So while *all* cross-actions are not subject to potential anti-SLAPP motions even though they may be filed in response to a complaint, "the critical point" is whether a complaint or cross-complaint is "*based on"* an act in furtherance of a right of petition or free speech. *Id.* at 78. Such is the case here.

Here, the SACP is based entirely on the City's view that the Housing Element Law and CEQA are conflicting laws and that the People cannot compel the City to violate CEQA by seeking to enforce the Housing Element Law. Of course, the way the People enforce the Housing Element Law is by petitioning the Court, as they have done here, to impose fines and penalties. Gov. Code §§ 65009.1, 65585. The cross-complaint is based on the People's petitioning activity, the filing and prosecution of this lawsuit. A civil enforcement action, such as the People's lawsuit, "amounts to protected petitioning activity." *Takhar v. People ex rel. Feather River Air Quality Management Dist*. (2018) 27 Cal.App.5th 15, 27 (explaining

further that the District's investigation of an alleged violation of the air pollution control laws, issuance of a notice of violation, and offer of settlement was also protected petitioning activity).

Given all of this, the People have met their burden on prong one. The burden thus shifted to the City to produce evidence showing a probability of prevailing on the merits. *Park v. Board of Trustees, supra*, 2 Cal.5th at 1061. To meet its burden, the City was required to show that it "stated a legally sufficient claim and made a prima facie factual showing sufficient to sustain a favorable judgment." *Newport Harbor Offices & Marina v. Morris Cerullo World Evangelism* (2018) 23 Cal.App.5th 28, 42.

The City asserts that it has shown that its claims have at least minimal merit. During oral argument, the City specified four items in support of this argument: HCD's rezone exemption memorandum (ROA # 731); the State Auditor's Report issued on January 15, 2026 (ROA # 619); and two previously filed declarations (ROA ## 575, 576).

HCD's rezone exemption memorandum provides that "relying solely on the SB 131 exemption [which provides a statutory exemption from CEQA for rezoning undertaken to implement the schedule of actions in a housing element] and not conducting the appropriate environmental review for discretionary action such as housing element adoption may complicate the ability to streamline future housing projects." However, the entire context of the statement explains that the exemption does *not* require an environmental impact report "in prior discretionary actions such as housing element adoption." While jurisdictions could prepare an EIR during the housing element update to "help preserve streamlining options," it is not required. Thus, the rezone exemption memorandum does not provide support for the City's claims it should delay its housing element update to accommodate CEQA review.

The State Auditor's Report states that, "[a]s HCD interprets and applies the law during its housing element review, it cannot dictate to local jurisdictions how they specifically choose to achieve compliance." Additionally, HCD "cannot dictate what local jurisdictions must do to achieve compliance because the local jurisdictions are the most knowledgeable about what housing plans work best for their community." The City argues these statements emphasize the importance of CEQA review in the process of adopting a housing element and zoning changes and that the holding in *Save Tara v. City of West Hollywood* (2008) 45 Cal.4th 116, coupled with this evidence, supports the City's claims that it has discretion on how to complete its CEQA review process.

Save Tara held that an agency "has no discretion to define approval so as to make its commitment to a project precede the required preparation of an EIR." *Save Tara, supra,* 45 Cal.4th at 132 (concluding the city's development agreement that was contingent on later CEQA review and other regulatory approvals violated CEQA's timing requirement). While *Save Tara* is good law as to CEQA, it simply is not relevant to the alleged overlap between CEQA and the obligation to adopt a compliant housing element.

Importantly, there is a statutory exemption to CEQA, Government Code section 65759, which states that 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…." Gov. Code § 65759(a). *Save Tara* did not address or involve this exemption.

Lastly, at the hearing the City referenced two declarations by Jennifer Villasenor (ROA # 576) and Anthony Taylor. (ROA # 575). Attorney Taylor's declaration pertains to HCD's deadline to respond to the City's Public Records Act request and does not appear to be relevant to this motion. Villasenor's declaration appears to address various causes of action in the first amended cross-petition that are no

longer at issue. The City did not explain which portions, if any, of Villasenor's declaration would support that its claims in the SACP have minimal merit.

For all these reasons, the City has not shown that it met its burden on prong two to demonstrate minimal merit. The City's additional arguments thus need not be reached.

Conclusion

For the reasons stated, the People's special motion to strike the SACP is **GRANTED**.

The minute order is the order of the Court.

The Clerk to serve notice.

Katherine A. Bacal

Judge Katherine A. Bacal