

1 ROB BONTA
Attorney General of California
2 DAVID PAI
Supervising Deputy Attorney General
3 JACKIE VU
Deputy Attorney General
4 State Bar No. 253533
300 South Spring Street, Suite 1702
5 Los Angeles, CA 90013-1230
Telephone: (213) 269-6440
6 Fax: (213) 897-2801
E-mail: Jackie.Vu@doj.ca.gov
7 *Attorneys for Petitioners and Plaintiffs People
of California rel. Rob Bonta, and the California
8 Department of Housing and Community
Development*

10 SUPERIOR COURT OF THE STATE OF CALIFORNIA

11 COUNTY OF SAN DIEGO

13 **PEOPLE OF THE STATE OF
14 CALIFORNIA; CALIFORNIA
DEPARTMENT OF HOUSING AND
15 COMMUNITY DEVELOPMENT,**

16 Petitioner and Plaintiff,

17 v.

18 **CITY OF CORONADO; CITY COUNCIL
19 OF CORONADO; AND DOES 1-50,**

20 Respondent and Defendant,
21

Case No.

**PETITION FOR WRIT OF MANDATE
AND COMPLAINT FOR
DECLARATORY RELIEF**

22
23 **INTRODUCTION**

24 1. Californians continue to suffer under a housing affordability crisis. The Legislature
25 has found that “[t]he lack of housing . . . is a critical problem that threatens the economic,
26 environmental, and social quality of life in California.” (Gov. Code, § 65589.5, subd. (a)(1)(A),
27 (B).) This crisis is “hurting millions of Californians, robbing future generations of the chance to
28 call California home, stifling economic opportunities for workers and businesses, worsening

1 poverty and homelessness, and undermining the state’s environmental and climate objectives.”
2 (*Id.*, subd. (a)(2)(A).)

3 2. A key contributor to this crisis is the failure of local governments to plan for the
4 necessary housing supply. To counteract this, the Legislature requires local governments to
5 include housing elements in their general plans. A housing element must include, among other
6 things, an assessment of housing needs, an inventory of resources and constraints relevant to
7 meeting those needs, and a program to implement the policies, goals, and objectives of the
8 housing element. Respondent/Defendant the City of Coronado has not complied with this
9 requirement.

10 3. Petitioners/Plaintiffs the California Department of Housing and Community
11 Development (“HCD”) and the People of California ex rel. Rob Bonta (collectively,
12 “Petitioners”) bring this action against the City of San Coronado and the City Council of
13 Coronado (collectively, the “City”) to remedy this violation. HCD requests that the Court issue a
14 writ ordering the City to bring its housing element into compliance with State law, and issue a
15 declaration that the City has failed to fulfill its planning obligations.

16 **PARTIES**

17 4. The Attorney General, as the chief law enforcement officer of the State of California,
18 brings this action under his broad independent powers to enforce state laws.

19 5. HCD is a public agency of the State of California. (Gov. Code, § 12804.) Among
20 other duties, HCD is responsible for developing housing policy and building codes, for regulating
21 manufactured homes and mobile home parks, and for enforcing state housing laws in a manner
22 that meaningfully and positively impacts the provision of housing in all communities across the
23 State.

24 6. The City of Coronado is a municipal corporation formed and existing under the laws
25 of the State of California, of which it is a political subdivision.

26 7. The City Council of Coronado is the elected governing body of the City of Coronado.
27 It is the legislative body charged under Government Code section 65300 with responsibility for
28

1 adopting a general plan, including a housing element, for the physical development of the City of
2 San Bernardino.

3 8. Petitioners are unaware of the true names and capacities of respondents and
4 defendants DOES 1 through 50 (the “Doe Respondents”), who are therefore sued by fictitious
5 names pursuant to Code of Civil Procedure section 474. Petitioners allege on information and
6 belief that each such fictitiously-named Doe Respondent is responsible or liable in some manner
7 for the events and happenings referred to herein, and Petitioners will seek leave to amend this
8 Petition and Complaint to allege their true names and capacities after the same have been
9 ascertained.

10 **VENUE AND JURISDICTION**

11 9. This Court has jurisdiction over this action pursuant to Code of Civil Procedure
12 sections 187, 1060, and 1085.

13 10. Venue is proper in this Court because the City is located in San Diego County and the
14 violations of law alleged herein occurred in San Diego County.

15 **BACKGROUND AND FACTUAL ALLEGATIONS**

16 **Housing Elements and the Planning Process**

17 11. The Legislature has declared that “[t]he availability of housing is of vital statewide
18 importance, and the early attainment of decent housing and a suitable living environment for
19 every Californian . . . is a priority of the highest order.” (Gov. Code, § 65580, subd. (a).)
20 California law requires that all local governments adequately plan to meet the housing needs of
21 everyone in the community, at all economic levels.

22 12. To meet this requirement, every city and county must adopt and periodically update a
23 housing element as part of its general plan. (See Gov. Code, §§ 65302, subd. (c), 65580, *et seq.*)
24 The law mandating this adoption and periodic update is known as the “Housing Element Law.”
25 (Gov. Code, § 65580, *et seq.*) California’s Housing Element Law requires local governments to
26 adopt plans and regulatory systems that provide opportunities for, and do not unduly constrain,
27 housing development, especially for a locality’s lower-income households and workforce. As a
28

1 result, housing policy in California rests largely on the effective implementation of the housing
2 element contained in the local general plan.

3 13. The housing element is a roadmap for housing development in a given community.
4 The housing element must identify and analyze existing and projected housing needs, and must
5 include “a statement of goals, policies, quantified objectives, financial resources, and scheduled
6 programs for the preservation, improvement, and development of housing.” (Gov. Code,
7 § 65583.) The housing element must also “identify adequate sites for housing” and “make
8 adequate provision for the existing and projected needs of all economic segments of the
9 community.” (*Ibid.*) Each housing element is also subject to review by HCD, as discussed below.

10 14. A local jurisdiction’s housing element must be frequently updated to ensure
11 compliance with California’s Housing Element Law. (Gov. Code, § 65588.) Each eight-year
12 update cycle is known as a “planning period.” (See *id.*, subd. (f)(1).)

13 15. The process of updating a housing element begins with HCD’s determination of a
14 Regional Housing Need Allocation (“RHNA”) for the region for a given planning period. (Gov.
15 Code, § 65584, subd. (a)(1).) The RHNA sets goals for housing affordable to various income
16 levels. To arrive at the RHNA, HCD starts with demographic population information from the
17 California Department of Finance and uses a formula to calculate a figure for each region’s
18 planning body, known as a “council of governments” (COG). Each COG (in this case, the San
19 Diego Association of Governments) also uses its own demographic figures to calculate the
20 regional housing need. Each COG coordinates with HCD to arrive at a final figure, taking into
21 account factors not captured in the calculations. This final figure is the RHNA. (See Gov. Code,
22 § 65584.01.)

23 16. Once the RHNA is set, the COG is responsible for allocating the housing need among
24 all of the cities and counties within that region. (Gov. Code, § 65584, subd. (b).) Each local
25 government must then prepare a housing element that identifies adequate sites to accommodate
26 that jurisdiction’s fair share of the RHNA at each income level. (Gov. Code, §§ 65583, 65583.2.)
27 Sites must be suitable for residential development and must be made available during the
28 planning period. (Gov. Code, § 65583.2, subd. (a).) If a sufficient quantity of adequate sites is not

1 currently available, the housing element must commit to identifying and rezoning additional sites
2 within three years from the date of adoption. (Gov. Code, §§ 65583, subd. (c)(1), 65583.2, subd.
3 (h).) The housing element must also accommodate any unmet portion of the RHNA from the
4 prior planning period. (Gov. Code, § 65584.09, subd. (a).)

5 17. Each housing element must also evaluate governmental constraints on the
6 development of housing for all income levels, and must show local efforts to remove
7 governmental constraints that impede the local government’s ability to meet its share of the
8 RHNA. (Gov. Code, § 65583, subd. (a)(5).)

9 18. Each housing element must include a program that promotes and affirmatively
10 furthers fair housing opportunities throughout the community for all persons, including an
11 assessment of fair housing in the local government’s jurisdiction. (Gov. Code, § 65583, subd.
12 (c)(10)(A).)

13 19. Each local government must submit a draft housing element to HCD before adoption.
14 (Gov. Code, § 65585, subd. (b)(1).) HCD must review the draft element and issue findings as to
15 whether the draft substantially complies with Housing Element Law. (*Id.*, subds. (b)(3), (d).)
16 Before a local government can adopt the draft element, its legislative body must consider HCD’s
17 findings. (*Id.*, § 65585, subd. (e).) If HCD finds that the draft element does not substantially
18 comply with state law, the local government’s legislative body must either (1) change the draft
19 element to substantially comply with substantially comply with the law or (2) adopt the draft
20 element without changes but including written findings in its resolution of adoption explaining
21 the reason the legislative body believes that the draft element substantially complies with the law,
22 despite HCD’s findings. (*Id.*, § 65585, subd. (f).)

23 20. After adopting the final housing element, the local government must again submit the
24 element to HCD, and HCD must again review and report its findings to the local government.
25 (*Id.*, subds. (g), (h).)

26 21. Under Chapter 370, Statutes of 2017 (“AB 72”), codified at Government Code
27 section 65585, subdivisions (i) and (j), HCD has authority to review any action or failure to act by
28 a local government that it determines is inconsistent with an adopted housing element or

1 section 65583 of California’s Housing Element Law. This includes failure to implement program
2 actions included in the housing element. HCD may revoke housing element compliance if the
3 local government’s actions do not comply with state law.

4 22. AB 72 also authorizes HCD to notify the Office of the Attorney General of California
5 that the local jurisdiction is in violation of state law for noncompliance with, among other
6 statutes, California’s Housing Element Law.

7 23. Pursuant to Government Code section 65585, subdivision (i)(1)(A), HCD may take
8 any of the actions authorized by AB 72 after issuing written findings to the local government “as
9 to whether the action or failure to act substantially complies with [California’s Housing Element
10 Law],” and providing a reasonable time, no longer than 30 days, for the local government to
11 respond. (Gov. Code, § 65585, subd. (i)(1)(A).) Prior to an enforcement action brought by the
12 Attorney General’s Office, HCD must also offer the City the opportunity for two in-person or
13 telephone meetings to discuss the violation, and provide the City with written findings regarding
14 the violation. (Gov. Code, § 65585, subd. (k).) As stated below, HCD has satisfied this
15 requirement here.

16 **The City of Coronado Housing Element**

17 24. The statutory deadline for the City to adopt a sixth cycle substantially compliant
18 housing element was April 15, 2021.

19 25. The City submitted a draft housing element to HCD on March 17, 2021.

20 26. After review, HCD determined that the initial draft was insufficient and offered the
21 City technical assistance and the opportunity to make revisions before HCD would issue its
22 official findings.

23 27. On May 3, 2021, the City submitted a revised draft element to HCD.

24 28. On May 12, 2021, HCD issued a findings letter stating that the City’s draft housing
25 element remained out of compliance and providing the City with a framework to revise its draft
26 element to comply with state law.

27 29. The City adopted its Housing Element on July 20, 2021.
28

1 **PRAYER FOR RELIEF**

2 WHEREFORE, HCD prays as follows:

3 1. For a writ of mandate ordering the City to submit a draft housing element in
4 compliance with California’s Housing Element Law (Gov. Code, § 65580, *et seq.*) and to ensure
5 that the draft housing element meets the City’s regional housing needs goals for the planning
6 period, as determined by HCD.

7 2. For a declaration that the City has not substantially complied with California’s
8 Housing Element Law (Gov. Code, § 65580, *et seq.*).

9 3. For any other relief the Court may deem appropriate.

10 Dated: October 20, 2023

Respectfully submitted,

11 ROB BONTA
12 Attorney General of California
13 DAVID PAI
14 Supervising Deputy Attorney General

15 

16 JACKIE VU
17 Deputy Attorney General
18 *Attorneys for Petitioners and Plaintiffs*
19 *People of California ex rel. Rob Bonta,*
20 *and the California Department of Housing*
21 *and Community Development*