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13 SUPERIOR COURT OF THE STATE OF CALIFORNIA
14 COUNTY OF ORANGE

16 **CALIFORNIANS FOR HOMEOWNERSHIP, INC.,**
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18 Petitioner,
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20 **CITY OF FULLERTON,**
21 Respondent.

Case No. 30-2022-01281840-CU-WM-CJC
ASSIGNED FOR ALL PURPOSES TO
Judge Jonathan Fish

**[PROPOSED] STIPULATED FINAL
JUDGMENT AND ORDER**

22
23 **PEOPLE OF THE STATE OF CALIFORNIA EX**
REL. ROB BONTA, AND THE CALIFORNIA
24 **DEPARTMENT OF HOUSING AND COMMUNITY**
DEVELOPMENT,
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26 Petitioners and Plaintiffs
in Intervention.
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1 Petitioners CALIFORNIANS FOR HOMEOWNERSHIP, INC., and Petitioners and
2 Plaintiffs in Intervention PEOPLE OF THE STATE OF CALIFORNIA, acting by and through
3 ROB BONTA, Attorney General of the State of California (the “People”), and the CALIFORNIA
4 DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT (HCD) (collectively,
5 the “State”), and Respondents CITY OF FULLERTON (the “City”), having stipulated to the
6 entry of this Final Judgment and Order (“Judgment”) without the taking of proof and without trial
7 or adjudication of any fact or law herein, and with all Parties having waived the right to appeal;
8 and the Court having considered the pleadings and good cause appearing:

9 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that judgment is entered in
10 favor of Petitioners and Petitioners and Plaintiffs in Intervention and against the City under
11 Government Code Section 65754 as follows:

12 1. The Court declares that the City has not timely adopted a sixth cycle housing element
13 update and its housing element is therefore not currently in substantial compliance with state law.

14 2. In order to achieve substantial compliance, the City shall adopt a revised housing
15 element (“Housing Element”) no later than November 6, 2024, for the Sixth Cycle 2021-2029
16 planning period that substantially complies with state housing element law. The City shall submit
17 its adopted Housing Element to HCD for HCD’s certification as set forth in Paragraph 3, below.
18 The Parties acknowledge that, consistent with Government Code section 65588(e)(4)(C)(iii),
19 which prohibits any finding of substantial compliance with Housing Element Law until the City
20 completes all required rezoning, any certification of substantial compliance is not in effect until
21 after the City completes the required rezoning by adopting its zoning ordinance amendments; the
22 City transmits the adopted documents to HCD; and upon review, HCD finds that the zoning
23 ordinance amendments are consistent with Government Code section 65583.2(h) and (i).

24 a. The City shall abide by the schedule attached hereto as **Exhibit A**, in order to
25 achieve substantial compliance with state housing element law, which schedule
26 may be modified by written agreement between the City and HCD.

27 3. The City shall comply with all statutory requirements with regard to its public
28 participation efforts including provisions to make a diligent effort to reach all economic segments

1 of the community pursuant to Government Code section 65583(c)(9) and public noticing pursuant
2 to Government Code section 65585(b)(1). Nothing in this provision precludes HCD from
3 receiving and/or considering public comments as required pursuant to Government Code section
4 65585(c).

5 4. HCD shall provide the City with technical assistance with its Sixth Cycle Housing
6 Element Revision as follows:

7 a. HCD staff will commit to at least 2.5 hours per month in technical assistance
8 telephone calls with the City, with additional time provided as capacity permits. In
9 connection with these technical assistance telephone calls, the City agrees to make
10 good faith, reasonable progress on the housing element revision process between
11 these calls.

12 b. In order to ensure efficiency in the technical assistance provided by HCD during
13 the housing element review process, the City agrees to make all revisions and edits
14 to its housing element in track changes, or to devise some other method of
15 highlighting all revisions and edits to the housing element, such that HCD can
16 quickly identify and review the City's revisions and edits.

17 5. Compliance with No Net Loss. The City shall maintain sites sufficient to
18 accommodate Regional Housing Needs Allocation throughout the Sixth Cycle planning period
19 consistent with Government Code section 65863.

20 6. Compliance with Duty to Affirmatively Further Fair Housing. The City shall
21 administer its programs and activities relating to housing and community development in a
22 manner to affirmatively further fair housing, and to take no action that is materially inconsistent
23 with its obligation to affirmatively further fair housing, consistent with Government Code section
24 8899.50.

25 7. Consistent with Government Code section 65759, the City may, at its choosing, be
26 exempt from compliance with CEQA in connection with all of the actions it is required to
27 undertake pursuant to the preceding paragraphs, if it complies with the requirements of Section
28 65759, including an environmental assessment.

1 8. Because the City has not had an adopted sixth cycle housing element starting on
2 October 15, 2021, the City shall not use the provisions in subdivision (d)(1) or (d)(5) of
3 Government Code Section 65589.5 to disapprove a housing development project that qualifies for
4 approval under those provisions—that is, a project in which either (A) at least 20 percent of the
5 total units shall be sold or rented to lower income households, as defined in Health and Safety
6 Code Section 50079.5, or (B) 100 percent of the units shall be sold or rented to persons and
7 families of moderate income as defined in Health and Safety Code Section 50093, or persons and
8 families of middle income, as defined in Government Code Section 65008—or to condition the
9 approval of such a project in a manner that renders it infeasible for development for the use of
10 very low, low-, or moderate-income households, or an emergency shelter, including through the
11 use of design review standards. Such provisions shall remain in effect until the City’s adopted
12 Housing Element is deemed to be substantially compliant with state law.

13 9. Rezoning. Consistent with Government Code section 65588(e)(4)(C)(iii), the Parties
14 agree the City shall complete any required rezoning for adequate sites during the Sixth Cycle
15 2021-2029 Planning Period under Government Code sections 65583(c)(1)(A) and 65583.2(h) and
16 (i) before its adopted Housing Element can be deemed substantially compliant.

17 **ENFORCEMENT OF JUDGMENT AND REMEDIES**

18 10. Failure to Comply with Agreed-Upon Terms. Upon the City’s failure to take actions
19 as agreed upon, the City may be subject to one or more of the provisions set forth under
20 Government Code section 65755, subdivision (a), until the City comes into compliance with the
21 terms of the Judgment, as set forth herein.

22 11. Remedies Upon Violation. Immediately upon the City’s failure to comply with any of
23 the terms of the Judgment, the State may file an order to show cause on an ex parte basis with the
24 Court, in compliance with applicable court rules and procedures, including proper notice to the
25 City. Upon a finding that the City has substantially failed to comply with any of the terms in the
26 Judgment, the Court shall elect one or more of the provision(s) set forth under Government Code
27 section 65755, subdivision (a), as remedies for the City’s violation(s), until the City has
28 substantially complied. In doing so, the Court is not limited to the remedial provisions set forth in

1 Government Code section 65755, and may fashion remedies so as to ensure compliance with
2 housing element law and to maximize the City's ability to meet its RHNA for the current cycle,
3 with a particular emphasis on meeting its low- and very low-income RHNA.

4 12. Statutory Penalty Pursuant to Government Code section 65585. In the event that the
5 City does not adopt a Sixth Cycle Housing Element that the Court determines substantially
6 complies with the law within 12 months of entry of this Judgment and after the Court conducts
7 the required status conference and makes the findings required, the statutory penalties under
8 Government Code section 65585, subdivision (l), shall apply.

9 13. Opportunity to Cure. Prior to enforcing this Judgment, the State shall provide written
10 notice identifying the terms with which the City has failed to comply. The State shall allow a
11 reasonable time to cure of at least 15 business days, or such other reasonable time period, after the
12 City's receipt of written notice before seeking enforcement of the Judgment. To the extent the
13 City must call a special session of its governing bodies (including the City Council) to timely cure
14 any failure to comply with the Judgment, the City shall call such special session.

15 **SATISFACTION OF JUDGMENT AND RELEASE**

16 14. Execution of this Judgment shall constitute full and final resolution of all disputes
17 related to this action, as to all parties and all claims that could have been brought herein.

18 15. Nothing in this Judgment shall be construed to limit the authority or ability of the
19 Attorney General to assert its right to protect the interests of the State of California or the people
20 of the State of California. This Judgment shall not bar the Attorney General or HCD from
21 investigating and enforcing laws, regulations, or rules against the City for conduct not covered by
22 this Judgment. Further, nothing in this Judgment precludes or affects the Attorney General's right
23 to determine and ensure compliance with this Judgment or individual petitioners' right to seek
24 enforcement of this Judgment.

25 16. This Judgment shall be deemed satisfied once all obligations under the provisions of
26 this Judgment are fulfilled.

27 17. With the exception of the provisions on enforcement and remedies set forth in this
28 Judgment, this Judgment releases and forever discharges any civil claim for damages, costs,

1 attorneys' fees, or penalties of any kind against the City by Petitioner (except as expressly
2 provided for in a written settlement agreement between Petitioner and the City), HCD and the
3 People for the City's failure to timely adopt its updated housing element for the Sixth Cycle
4 2021-2029 Planning Period.

5 18. The Attorney General, representing both the People and HCD in this action, executes
6 this release in his, her, or their official capacity and releases only claims belonging to the
7 Attorney General and HCD.

8 19. The State shall bear their own fees and costs, and the City shall bear its own fees and
9 costs with respect to any claims against the State.

10 20. This Judgment may be enforced only by the Parties hereto.

11 **MISCELLANEOUS PROVISIONS**

12 21. Nothing in this Judgment shall be construed as relieving the City of the obligation to
13 comply with all local, state, and federal laws, regulations, or rules.

14 22. If any portion of this Judgment is held invalid by operation of law, the remaining
15 terms of this Judgment shall not be affected and shall remain in full force and effect.

16 23. The terms of this Judgment shall be governed by the laws of the State of California.

17 24. This Judgment, together with the separate written settlement between the City and
18 Petitioner, contains the complete agreement entered into by the Attorney General, HCD,
19 Petitioner and the City related to the conduct at issue in the action. No promises, representations,
20 or warranties other than those set forth in this Judgment have been made by the Attorney General,
21 HCD, or by the City. This Judgment supersedes all prior communications, discussions, or
22 understandings regarding the City's alleged conduct.

23 25. The Judgment may be modified by a stipulation of the Parties as approved by the
24 Court, or by court proceedings resulting in a modified judgment of the Court. Any failure by any
25 party to this Judgment to insist upon the strict performance by any other party of any of the
26 provisions of this Judgment shall not be deemed a waiver of any of the provisions of this
27 Judgment, and such party, notwithstanding such failure, shall have the right thereafter to insist
28 upon the specific performance of any and all of the provisions of this Judgment.

1 26. The use of headings in this Judgment is only for ease of reference, and the headings
2 have no legal effect and are not to be considered part of this Judgment.

3 27. Jurisdiction is retained by the Court, under Code of Civil Procedure section 664.6, for
4 the purpose of enabling any party to the Judgment to apply to the Court at any time for such
5 further orders and directions as may be necessary or appropriate for the construction or carrying
6 out of this Judgment for enforcement of compliance herewith, and for the punishment of
7 violations hereof, if any.

8 28. The Parties agree and represent that any persons signing a stipulation for entry of this
9 Judgment are authorized by proper authorities to execute such stipulation on their behalf.

10 29. This Judgment may be executed in counterparts, and a facsimile or digital signature in
11 PDF format shall be deemed to be, and shall have the same force and effect as, an original
12 signature.

13 30. All notices shall be provided in writing to the following via email and overnight mail.

14 For the City:

15 Eric Levitt, City Manager
16 City of Fullerton
17 303 W. Commonwealth Ave.
18 Fullerton, CA 92832

19 Richard D. Jones, City Attorney
20 Jones Mayer
21 3777 N. Harbor Blvd.
22 Fullerton CA 92835

23 For the State:

24 David Pai
25 California Department of Justice, Office of the Attorney General
26 1515 Clay Street, Fl. 20
27 Oakland, CA 94612

28 For Petitioner:

 Matthew Gelfand
 Counsel, Californians for Homeownership
 525 S. Virgil Avenue
 Los Angeles, CA 90020

1 Any Party may update its designee or address by sending written notice to the other Party
2 informing them of the change.

3 31. The Clerk is ordered to enter this Judgment forthwith.
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APPROVAL BY COURT

APPROVED FOR FILING and SO ORDERED this _____ day of _____,
2024.

Hon. Jonathan Fish
Judge of the Superior Court

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EXHIBIT A

1. Prior to March 1, 2024, the City will conduct public outreach, which shall involve publicizing the Housing Element’s availability to all individuals and organizations who provided comments on earlier versions of the Housing Element, soliciting written and verbal feedback from members of the public, holding a public workshop, and incorporating comments as appropriate. No later than March 13, 2024, the City staff shall publish its revised draft housing element on the City’s website for public review and comment.

2. No later than March 25, 2024, the City will submit the revised Draft Housing Element to HCD for review.

3. HCD shall return its formal written findings to the City no later than May 9, 2024. No later than May 23, 2024, City staff and HCD representatives will meet by video conference for at least one hour to review HCD’s comments.

4. No later than June 19, 2024, the City will release a second revised Draft Housing Element for a 7-day public review. The City shall concurrently provide a courtesy copy of the second revised Draft Housing Element to HCD seven calendar days in advance of the City’s second formal submittal, or as soon as practicable.

5. No later than July 1, 2024, the City will submit the second revised Draft Housing Element to HCD.

6. During HCD’s review of the revised Draft Housing Element, City staff will continue work on any associated draft Environmental Assessment and/or Environmental Impact Report and commence work on implementing actions needed to effectuate the Housing Element, including General Plan Amendments and zoning ordinance amendments.

7. HCD shall return its formal written findings to the City no later than August 15, 2024. No later than August 30, 2024, City staff and HCD representatives will meet by video conference for at least one hour to review HCD’s comments. No later than September 10, 2024, City staff and HCD representatives will meet by video conference for at least one hour to review working drafts of the City’s response to HCD’s comments.

1 8. No later than September 25, 2024, the City’s Planning Commission will hold a duly
2 noticed public hearing to consider the Sixth Cycle Housing Element.

3 9. No later than November 5, 2024, the City Council will hold a duly noticed public
4 hearing to adopt the Sixth Cycle Housing Element.

5 10. No later than November 6, 2024, the City will submit the adopted Sixth Cycle
6 Housing Element to HCD. Any certification from HCD finding that the City is substantially
7 compliant with Housing Element Law is conditioned upon HCD’s subsequent finding that the
8 City’s zoning ordinance amendments are consistent with the housing element program to rezone
9 and Government Code section 65583.2(h) and (i).

10 11. The City will complete its required rezoning under Government Code section
11 65588(e)(4)(C)(iii) by December 29, 2024, and promptly submit to HCD for review.

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DECLARATION OF SERVICE BY E-MAIL

Case Name: **Californians for Homeownership v. City of Fullerton**

Case No.: **30-2022-01281840-CU-WM-CJC**

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 collection and processing of correspondence for electronic mail.

On January 18, 2024, **[PROPOSED] STIPULATED FINAL JUDGMENT AND ORDER** by transmitting a true copy via electronic mail, addressed as follows:

Californians for Homeownership, Inc.
Matthew P. Gelfand
Email Address: matt@caforhomes.org
Allyson H. Richman
Email Address: allyson@caforhomes.org
525 S. Virgil Ave.
Los Angeles, California 90020
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3777 North Harbor Blvd.
Fullerton, CA 92835
Telephone: (714) 446-1400
Facsimile: (714) 446-1448
Attorneys for Defendant City of Fullerton

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 January 18, 2024, at Los Angeles, California.

N. Lewis
Declarant



Signature