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8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 FOR THE COUNTY OF ORANGE
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11
12 Laguna Beach Historic
13 Preservation Coalition,
14 an unincorporated association;
15 Preserve Orange County, a
16 California non-profit public benefit
17 corporation; and Village Laguna, a
18 California non-profit corporation;

19 Petitioners;

20 v.

21
22 City of Laguna Beach and City
23 Council of Laguna Beach;

24 Respondents.
25 _____ /

Case No.

Petition for Writ of Mandamus

California Environmental Quality Act
[CEQA]

Petitioners allege:

Introduction

1. The Laguna Beach Historic Preservation Coalition, Preserve Orange County, and Village Laguna bring this mandamus action in the public interest. They challenge the city's amendment of its Historic Preservation Program without complying with mandates of state environmental law.

Bowing to property-owners' demands to alter or replace historic buildings with those of ever-greater mass and scale, the city has decreed *owner consent* as the prerequisite to identifying and protecting local historic resources. Such consent is *irrelevant* to historic merit, and now hundreds of city-identified historic resources rich with California character will be newly at risk of substantial alteration or demolition.



The City Council's actions were both short-sighted and unlawful. The California Environmental Quality Act (CEQA) protects the historic "built" environment to the same extent as the state's natural resources such as air, water, and forests. Indeed, *as a matter of law* CEQA projects that substantially impact historic resources *will have*

1 significant environmental impacts. (Pub. Resources Code, § 21084.1.) CEQA does not
2 allow an agency to approve such impactful projects without an environmental impact
3 report (EIR) process to analyze mitigations and alternatives.

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5 Here, the city refused to prepare an EIR before, *inter alia*, it amended the Historic
6 Resources Element of the Laguna Beach General Plan and took implementing actions
7 to *reduce* historic resource protections via a newly “voluntary” Historic Preservation
8 Program. Absent relief from this Court, consequences will be grave. Property owners
9 with plans to clear valuable coastal lots for new buildings are likely to oppose rather
10 than consent to historic status despite the unique historic value of existing buildings.
11 Deserving properties will not be identified and owners will not be required to explore
12 options for the feasible, cost-effective expansion and restoration of historic homes.
13 Instead, buildings will be remodeled or demolished without consideration of their
14 historic qualities. Laguna’s Historic Preservation Program will thereby facilitate
15 needless, irreversible damage to its charming beachtown character and historic legacy.

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18 CEQA is citizen-enforced. The Laguna Beach Historic Preservation Coalition,
19 Preserve Orange County, and Village Laguna therefore seek this Court’s judgment and
20 peremptory writ. Under the low-threshold ‘fair argument’ standard of review, the City
21 Council’s discretion to consider and codify a voluntary preservation program must be
22 informed by EIR analysis and adoption of feasible mitigations and alternatives.

23
24 Judgment is urgently and respectfully requested to set aside the city’s approval
25 of the revised Historic Preservation Program pending CEQA compliance. An EIR
26 process must precede program revision, consideration, approval, or implementation.
27 Petitioners challenge *all* of the city’s actions taken to approve the program. While some
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1 approvals also require California Coastal Commission approval by statute or
2 regulation, the city's revision of the Historic Resources Element does not.

4 **Jurisdiction**

5 2. This Court has jurisdiction under Public Resources Code section 21168.5
6 and Code of Civil Procedure section 1085. The parties and affected historic resources lie
7 within the City of Laguna Beach and the County of Orange.
8

10 **Parties**

11 3. Petitioner Laguna Beach Historic Preservation Coalition is an
12 unincorporated association formed in the public interest before the city's approvals of
13 the revised Historic Preservation Program. Its mission is to preserve and protect the
14 historic fabric of Laguna Beach. Association members enjoy and appreciate the city's
15 historic resources. The association brings this petition on behalf of all others similarly
16 situated and too numerous to be named and brought before this Court as petitioners.
17 The association and its members objected to the city's approvals of the general plan
18 amendments and related actions to further the revised Historic Preservation Program,
19 and exhausted their administrative remedies.
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22 4. Petitioner Preserve Orange County is a California non-profit public benefit
23 corporation founded in 2016 by a group of residents to promote conservation of Orange
24 County's architectural and cultural heritage. Its members enjoy and appreciate historic
25 resources in Laguna Beach and believe that historic resources are essential to
26 maintaining and improving livability, diversity, sustainability, and economic vitality.
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1 The corporation brings this petition on behalf of all others similarly situated and too
2 numerous to be named and brought before this Court as petitioners. It objected to the
3 city's approvals of the general plan amendments and revised Historic Preservation
4 Program and exhausted administrative remedies.

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6 5. Petitioner Village Laguna is a California non-profit corporation formed in
7 1971. Among its primary goals is the preservation of the unique village character of
8 Laguna Beach, recognizing and celebrating the city's historic and cultural heritage, and
9 preserving the character of the downtown and distinctive neighborhoods that residents
10 and Village Laguna supporters appreciate and enjoy. The corporation brings this
11 petition on behalf of others similarly situated too numerous to be named and brought
12 before this Court. It objected to the city's approvals of the general plan amendments
13 and Historic Preservation Program and exhausted administrative remedies.

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16 6. Respondents City of Laguna Beach and its City Council (collectively, the
17 city) is the governmental body that made first approvals of the Historic Preservation
18 Program, including a general plan amendment and related implementing actions. It is
19 the lead agency responsible for CEQA compliance on matters within its jurisdiction.

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21 7. A copy of this petition has been mailed to the California Attorney General.

22 **General Allegations**

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24 8. The paragraphs below refer to and rely on information in documents that
25 will be lodged with this Court as part of the record of proceedings.

Environmental Setting

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2 9. The National Park Service recognizes and honors the entirety of Laguna
3 Beach, including its built environment, as a Historic American Landscape. “A Short
4 History of Laguna Beach” by historian Karen Turnbull, reprinted within the Historic
5 Resources Element of the Laguna Beach General Plan, explains:
6

7 “The fact that the railroad never had tracks to Laguna Beach and that, still
8 today, only two roads lead in and out of the city, has caused Laguna to remain a
9 somewhat isolated and self-contained village. The village quality has continued
10 to be perpetuated particularly through the local architecture. Today Laguna
11 Beach contains a myriad of residential and commercial building styles all with
12 the mark of charm and individuality that has been popular in the city through
13 the decades. Many of these one-of-a-kind houses are simply referred to as the
14 Eclectic style. The individuality of existing (or newer) homes in Laguna resulted
15 from the general lack of large tract development. Most houses built in Laguna
16 were designed and built one at a time. The result is a very diverse collection of
17 architecture without large concentrations of one particular style found in other
18 South Orange County communities.

19 The older homes and buildings in the city form both an important part of
20 the local history and serve as an important setting component of the quality
21 and character of Laguna Beach. For this reason, it is important that the City of
22 Laguna Beach implement programs which protect and prolong the life of these
23 older buildings.”

24 10. Primary architectural styles that characterize Laguna’s environmental
25 setting are Craftsman (circa 1910-1930), Bungalow (circa 1900-1930), Beach Cottage
26 (circa 1910-1940), Period Revival (circa 1928-1940), Moderne (circa 1930-1940), and
27 Eclectic (circa 1915-1940). Laguna also has a notable trove of Mid-century Modern
28

1 buildings (circa 1940-1969).

2 11. As explained by the city’s Heritage Committee: “The streetscape of older
3 Laguna is changing in terms of size, scale, and character of housing ... Escalating land
4 values discourage rehabilitation and encourage demolition of older structures ...
5 changing the density and the character of neighborhoods ... There is a lack of
6 knowledge of compatible rehabilitation techniques and approaches.”
7

8
9 ***Project Description***

10 12. The revised Historic Preservation Program is a project that as described by
11 city staff includes General Plan Amendment 19-5414, Zoning Ordinance Amendment
12 17-0289, and Local Coastal Program Amendment 17-0388 “**to provide for a local**
13 **voluntary preservation program**” and revised historic incentives for properties listed
14 in the Laguna Beach Historic Register.
15

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17 ***Administrative Process and Approval***

18 13. The city’s controversial update of its Historic Preservation Program spans
19 years of public meetings, workshops, and task force meetings involving the public and
20 city boards and commissions.
21

22 14. In October 2018 the City Council directed staff to proceed with
23 environmental review for a “voluntary” preservation program. The city conducted
24 CEQA analysis for the program/project including proposed General Plan Amendment
25 19-5414 to the Historic Resources Element, Zoning Ordinance Amendment 17-0289,
26 and Local Coastal Program Amendment 17-0388. An Initial Study/Negative
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1 Declaration was circulated for public comment for 30 days, beginning in January 2020.

2 15. In late February 2020, the city’s Planning Commission conducted a public
3 hearing and voted to recommend that the City Council adopt the proposed
4 amendments to the Municipal Code and approve the Negative Declaration.
5

6 16. On July 14, 2020, the City Council conducted a public hearing at which the
7 public raised objections to the reductions in protections to historic resources being
8 considered by the city, as also presented in detailed written comments. The Council
9 approved a resolution that adopted the Negative Declaration and introduced Zoning
10 Ordinance Amendment 17-0289. The Ordinance proceeded to a second reading on
11 August 11, 2020. On that date, following an additional public hearing, the Council
12 approved amendments to the Historic Resources Element and amendments to the
13 Laguna Beach Residential Design Guidelines and Local Coastal Program.
14

15 17. California Coastal Commission review and consideration for approvals
16 are pending for the City Council’s above-referenced and approved amendments to the
17 Zoning Ordinance, Design Guidelines, and Local Coastal Program.
18

19 18. The City Council had sole authority to approve amendments to the
20 Historic Resources Element of the General Plan. As part of its final discretionary
21 approval, the Council in August 2020 chose to impose a condition not required by
22 statute or regulation, that said revisions would “not become effective until and unless
23 the Coastal Commission certifies [Local Coastal Program Amendment] 17-0388.”
24

25 19. The city did not file a Notice of Determination following its approval
26 actions relating to the revised Historic Preservation Program on July 14 and August 11
27 2020. This petition is timely-filed within 180 days of the approvals.
28

1 20. Petitioners have no plain, speedy, and adequate remedy in the ordinary
2 course of law. Issuance of a peremptory writ is imperative to avoid irreparable harm to
3 Laguna Beach residents and the city’s environment via implementation of the
4 voluntary Historic Preservation Program without compliance with law. The city has
5 the capacity to correct its violations of law but has failed and refused to do so.
6

7
8 **Violations of the California Environmental Quality Act**

9 21. Petitioners incorporate all paragraphs as if fully set forth.

10 22. CEQA requires agencies to conduct a prescribed, public EIR process
11 before taking actions that may have any significant adverse environmental impacts.
12 The process both informs the public and provides necessary information to allow
13 elected officials and decisionmakers to comply with CEQA’s substantive mandate:
14 the adoption of feasible project mitigations and alternatives that can reduce a project’s
15 significant environmental impacts.
16

17 23. The city abused its discretion and failed to act in the manner required by
18 law in approving the Historic Preservation Program based on the Initial Study/
19 Negative Declaration, without adopting feasible mitigation measures and alternatives.
20 According to proof upon certification of the administrative record:
21

22 a. The city unlawfully approved a project with potentially significant
23 environmental impacts without preparing an EIR to inform its discretion. The record
24 contains substantial evidence supporting a fair argument of potentially significant
25 environmental impacts of the new voluntary Historic Preservation Program. Among
26 other impacts that may be supported by evidence in the record of proceedings,
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1 potentially significant impacts will be caused by, *inter alia*:

- 2 • Reduction of city protections to historic resources by requiring that
- 3 property-owners must consent to any identification of a resource as
- 4 eligible for listing in the Local Historic Register or as otherwise historic,
- 5 unmoored from facts and expert evaluation. Owner consent is not a valid
- 6 criterion for identifying historic merit or status subject to CEQA.
- 7
- 8 • Narrowing of the definitions of historic resources entitled to protection.
- 9
- 10 • Removal of historic status of properties listed on the city's 1981 Inventory.
- 11
- 12 • Elimination of current requirements for historic assessments of properties
- 13 identified in the Historic Resources Element before allowing alterations,
- 14 remodels, or demolitions.
- 15
- 16 • Elimination of current city protections for Appendix F, the State Historic
- 17 Preservation Officer CHRIS Historic Properties Data File.
- 18
- 19 • Aesthetic impacts to scenic vistas and public views of unique and/or
- 20 architecturally significant vintage or historic structures.

21 b. The city failed to provide copies of the proposed amendments to the

22 general plan available as an appendix to the Initial Study/Negative Declaration, and

23 failed to study the 'whole of the action.'

24 c. Regardless of whether the city has final approval of all aspects of the

25 Historic Preservation Program, including amendments to the Laguna Beach Residential

26 Design Guidelines and Local Coastal Program Amendment, in making the first

27 approvals including amendments to the Historic Resources Element of the Laguna

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1 Beach General Plan, which is not part of the Local Coastal Program, the city failed to
2 comply with CEQA as to the whole of the action subject to an EIR process.

3 d. The city failed to make findings supported by substantial evidence that the
4 revised and newly-voluntary Historic Preservation Program would clearly have no
5 significant impacts.
6

7
8 **WHEREFORE**, petitioners pray:

9 1. That the Court issue judgment and a peremptory writ ordering the city
10 respondents to set aside all actions and approvals relating to the revised Historic
11 Preservation Program, requiring that before further consideration of approval the city
12 conduct an adequate and complete EIR process, identify and adopt feasible mitigation
13 measures and alternatives to lessen or avoid environmental impacts, and make all
14 findings required by CEQA, supported by substantial evidence;
15

16 2. That the Court enjoin the city and its employees and agents from all
17 physical actions furthering the Historic Preservation Program and related projects
18 while the petition is pending and after judgment pending compliance with the writ;
19


20 3. For petitioners' reasonable costs, expenses, and attorney fees pursuant to
21 Code of Civil Procedure section 1021.5; and

22 4. For other and further relief as the Court finds proper.
23

24 January 11, 2021

Respectfully submitted,

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26 BRANDT-HAWLEY LAW GROUP

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Susan Brandt-Hawley
Attorney for Petitioners

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Verification

I, Susan Brandt-Hawley, am an attorney for the petitioners, whose members are located outside of Sonoma County where I have my law offices, and so I verify this petition on their behalf. I have read this petition and know its contents. The matters stated in it are true based on my knowledge, except matters that are stated on information and belief, and as to those matters I believe them to be true.

I declare under penalty of perjury that the above is true to the best of my knowledge and that this verification is executed on January 11, 2021, at Glen Ellen, California.



Susan Brandt-Hawley

1 *Laguna Beach Historic Preservation Coalition et al.*
2 Orange County Superior Court Case No. _____

3 **PROOF OF SERVICE**

4 I am a citizen of the United States and a resident of the County of Sonoma.
5 I am over the age of eighteen years and not a party to this action. My business address
6 is P.O. Box 1659, Glen Ellen, California 95442.

7
8 On January 11, 2021, I served one true copy of:

9 **Petition for Writ of Mandamus**

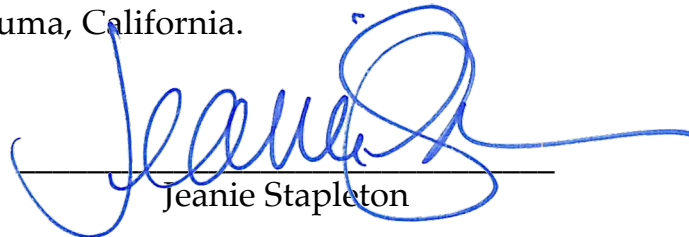
10 By placing a true copy enclosed in a sealed envelope with prepaid
11 postage, in the United States mail in Petaluma, California, to the
12 persons listed below.

13 _____ By electronic service via OneLegal on counsel as listed below.

14 _____ By emailing a copy to counsel as listed below.

15
16 Edward Ochoa, Deputy Attorney General
17 Office of the Attorney General
18 P.O. Box 85266
19 San Diego, CA 92186-5266

20 I declare under penalty of perjury that the foregoing is true and is executed on
21 January 11, 2021, at Petaluma, California.

22
23 
24 _____
25 Jeanie Stapleton