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11 TAORMINO.

12 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
13 **COUNTY OF YOLO**

14 PALOMINO PLACE, LLC and J. DAVID
15 TAORMINO

16 Petitioners and Plaintiffs,

17 v.

18 CITY OF DAVIS and the DAVIS CITY
19 COUNCIL;
20 DOES 1 through 10, inclusive,

21 Respondents and Defendants

22 DOES 11 through 50 inclusive,

23 Real Parties in Interest.

No. _____

**VERIFIED PETITION FOR WRIT OF
MANDATE**

[Code of Civ. Proc. § 1094.5; Gov. Code §
65589.5, subdivision (d); Gov. Code § 65920
et seq; Pub. Resources Code §§ 21000, *et*
seq.]

INTRODUCTION

1
2 1. Palomino Place, LLC and J. David Taormino (collectively “Petitioners”) have an
3 application pending in the City of Davis (“City”) seeking entitlements necessary to develop a
4 163-unit subdivision in which more than twenty percent of the units will be deed restricted for
5 low-income households (“Project”). While the application has been pending, the City has been
6 informed by the state that it is not compliant with state housing element law which requires local
7 jurisdictions to provide land appropriately zoned to accommodate their allotment of the region’s
8 needed new housing and affordable housing. Yet, despite the fact that Petitioners desires to build
9 homes, including affordable units, in a jurisdiction that is in substantial need of more housing, the
10 City and its City Council (collectively “Respondents”) have – for two years – refused to even
11 process the application and are engaged in an unmistakable effort to effectively deny the Project
12 by imposing indefinite delay.

13 2. To elaborate, the State of California is in the midst of a housing crisis of epic
14 proportions. In response to the magnitude of the crisis, Governor Newsom has set an ambitious
15 goal to have local governments approve and construct a combined 2.5 million new homes by
16 2030. Despite this call to action, the City of Davis last year issued building permits for only
17 twenty-three (23) residential units – of which, only six (6) were for primary residences and the
18 other seventeen (17) were for accessory dwelling units. This complete lack of an adequate
19 response to the housing crisis facing our state and our region is, unfortunately, not surprising since
20 the City of Davis which has effectively been a “no growth” jurisdiction for more than two decades
21 and has completely neglected its obligation to build enough housing.

22 3. The City’s failure to approve housing to accommodate its share of regional growth
23 is exacerbating the statewide housing crisis; it is inflating the cost of housing in Davis making the
24 jurisdiction even more unaffordable; it is resulting in significant environmental impacts
25 associated with a jobs/housing imbalance such as longer commutes and increased greenhouse gas
26 emissions that contribute to climate change; and it is having an exclusionary effect that impedes
27 socioeconomic and racial integration in Yolo County.

1 Quality Act, Pub. Resources Code § 21000, *et seq.*, and the California Environmental Quality Act
2 Guidelines (“CEQA Guidelines”), Cal. Code Regs., *tit.* 14, § 15000, *et seq.*, and Cal. Code of Civ.
3 Proc. §§ 1021.5, 1085 and 1094.5.

4 **PARTIES**

5 **Petitioners**

6 12. Petitioner PALOMINO PLACE, LLC, is, and at all times relevant to this Petition
7 has been, a California corporation organized and existing under the laws of the State of California.
8 PALOMINO PLACE, LLC, has an office located in Davis, California where the principal and
9 co-Plaintiff, J. DAVID TAORMINO, has lived and worked for more than 56 years.

10 **Respondents**

11 13. Respondent CITY is a municipality formed in accordance with the laws of the State
12 of California. Respondent COUNCIL is the legislative body entrusted with the duty and authority
13 to manage the affairs of, and act on behalf of, Respondent CITY. Respondents are the entities
14 whose actions, inactions and decisions regarding the Project are challenged in this Petition.
15 Respondents’ business address is 23 Russell Blvd, Davis, California.

16 **Does**

17 14. Petitioners do not know the true names of DOES 1 through 50 inclusive, and
18 therefore name them by such fictitious names. Petitioners will amend this Petition to reflect the
19 true names and capacities of DOES 1 through 50 once ascertained.

20
21 **BENEFICIAL INTEREST**

22 15. Palomino Place, LLC is a development company located in Davis, California.
23 Petitioner’s beneficial interest is adversely affected with respect to its development interests.
24 Petitioner is further beneficially interested as a company headquartered in Davis with nearly all
25 of its employees, save for the founding member, commuting to Davis daily from neighboring
26 towns due to a lack of housing in Davis. The Council’s actions and inactions are adversely
27 affecting Petitioner’s proposed residential development and have detrimental impacts on its
28 employees.

1 engage in project denial through calculated inaction, are ongoing in violation of statutory
2 obligations.

3 23. Petitioners have thus filed its current action within three years of the date of the
4 violation.

5 JURISDICTION AND VENUE

6 24. This action is brought pursuant to Public Resources Code sections 21167, 21168,
7 and 21168.5, and Code of Civil Procedure sections 1094.5 and 1085, which authorize the court
8 to issue a writ of mandate.

9 25. Venue is proper in Yolo County under Code of Civil Procedure sections 394 and
10 395.

11 STATEMENT OF FACTS

12 **Legislative and General Background**

13 26. In October 2017, then gubernatorial candidate Gavin Newsom declared that
14 California should set a goal to produce 3.5 million new homes by 2025 (that target has since been
15 revised to 2.5 million by 2030). In a social media post, Newsom went on to state that, “There is
16 no silver bullet to solve this [housing] crisis. We need to attack the problem on multiple fronts by
17 generating more funding for affordable housing, implementing regulatory reform and creating
18 new financial incentives for local jurisdictions that produce housing while penalizing those that
19 fall short.”¹ Roughly one year later, during Governor Newsom’s first legislative session he
20 pledged to make the State’s housing crisis one of his administration’s top priorities.

21 27. From 2018 to date, the State Legislature has approved multiple bills revising
22 existing laws and creating new ones intended to streamline the local approval of housing projects
23 including but not limited to Senator Skinner’s “Housing Crisis Act of 2019” (SB 330) in which
24 the Legislature declared a “statewide housing emergency” and committed to, through legislation,
25 “Work with local governments to expedite the permitting of housing in regions suffering the
26 worst housing shortages...” (cite; *emphasis added.*)

27
28

¹ (<https://medium.com/@GavinNewsom/the-california-dream-starts-at-home-9dbb38c51cae>; *emphasis added.*).

1 28. The HAA, which was updated by SB 330 in numerous substantive ways, recognizes
2 the severity of the housing crisis facing the state and, in large measure, finds that local
3 governments which hold the land use authority are in many cases responsible for the backlog of
4 units not being constructed and the resulting soaring unaffordability. The Act states:

5
6 65589.5. (a) (1) The Legislature finds and declares all of the following:

7 (A) The lack of housing, including emergency shelters, is a critical problem
8 that threatens the economic, environmental, and social quality of life in
9 California.

10 (B) California housing has become the most expensive in the nation. The
11 excessive cost of the state's housing supply is partially caused by activities
12 and policies of many local governments that limit the approval of housing,
13 increase the cost of land for housing, and require that high fees and exactions
14 be paid by producers of housing.

15 (C) Among the consequences of those actions are discrimination against low-
16 income and minority households, lack of housing to support employment
17 growth, imbalance in jobs and housing, reduced mobility, urban sprawl,
18 excessive commuting, and air quality deterioration.

19 (Gov. Code § 65589.5, subd. (a)(1)(A-C); *emphasis added.*)

20 29. Prior to the recent legislation focusing on housing, a series of land use related bills
21 focused on addressing climate change through, in part, local land use decisions. Led by Assembly
22 Bill 32 (Nunez, 2006) and Senate Bill 375 (Steinberg, 2008), the legislature encouraged localities
23 to reduce greenhouse gas emissions by, among other things, achieving a jobs/housing balance to
24 minimize long commutes.

25 30. Since Governor Newsom's call to action on housing six years ago, the dual crises
26 of housing affordability and climate change have been at the forefront of most state and local
27 elected bodies.

28 31. On January 31, 2023, the Davis City Council discussed the need for housing,
recognizing the graveness of the state housing crisis and expressing a "moral obligation" to
provide housing for all.

 32. On March 1, 2023, Davis Mayor Will Arnold, in his "State of the City" address
recognized the lack of housing to be one of the biggest problems facing the City and indicated

1 that the Council “recognizes the importance of that need and is continuing to do the work even in
2 the face of community opposition, when it happens, to adding new housing.” He also touted the
3 Council’s recent adoption of the Housing Element which he called “bold” and that it “calls for us
4 to really step up to face the housing crisis that we’re in right now.”

5 33. The City’s Housing Element, however, has not been seen by the State Department
6 of Housing and Community Development (“HCD”) as “bold” nor was it found to even be
7 substantially compliant with state housing law.

8 34. To elaborate, the City of Davis received its regional housing needs allocation
9 (“RHNA”) from the Sacramento Area Council of Governments (“SACOG”) on or about March
10 19, 2020.² Pursuant to Government Code Section 65583, the City was then required to prepare a
11 Housing Element demonstrating how and where the City will accommodate its RHNA obligation
12 for the 2021-2029 housing cycle and then submit that element to the State Department of Housing
13 and Community Development (“HCD”) by May 15, 2021 for its review and approval.

14 35. On May 3, 2021, City staff submitted the required draft 2021-2029 Housing
15 Element to HCD.

16 36. On July 1, 2021, HCD sent a letter to the City finding that the Housing Element, as
17 submitted on May 3, 2021, did not comply with State Housing Law (Article 10.6 of the California
18 Government Code). Among other things, HCD took issue with how the draft housing element
19 attempted to utilize student housing to satisfy RHNA obligations, which is not permitted under
20 state housing element law. Furthermore, HCD concluded that the draft housing element did not
21 adequately demonstrate how the City’s identified sites and strategies could accommodate the
22 City’s RHNA obligation.

23 37. On August 31, 2021, the City Council held a public hearing on, and then adopted,
24 a revised draft 2021-2029 Housing Element.

27
28 ² RHNA identifies the number of new homes a jurisdiction must plan to accommodate within an eight-year
planning period. See SACOG Regional Housing Needs Plan – Cycle 6 (2021-2029) (March 2020),
[https://www.sacog.org/sites/main/files/file-attachments/proposed_rhna_plan_2020-1-
27_0.pdf?1588205260](https://www.sacog.org/sites/main/files/file-attachments/proposed_rhna_plan_2020-1-27_0.pdf?1588205260).

1 38. On September 10, 2021, City staff submitted the adopted 2021-2029 Housing
2 Element to HCD.

3 39. On December 8, 2021, HCD sent a letter to the City, finding that the Housing
4 Element, as submitted on September 10, 2021, still did not comply with State Housing Law
5 (Article 10.6 of the California Government Code). In that letter, HCD continued to request
6 additional information as to why the City was attempting to count student housing towards their
7 RHNA obligations. Additionally, HCD noted that the City’s revised sites inventory attempted to
8 accommodate more than 50 percent of the City’s allocated RHNA obligation for lower-income
9 households on nonvacant sites without substantial evidence that redevelopment of those sites was
10 likely. Notably, this letter continued to identify the same issues that were discussed in the July 1,
11 2021 letter, evidencing once again that the City’s updated draft housing element was inadequate
12 on the basis that it failed to comply with state housing law.

13 40. On January 3, 2023 HCD sent a letter to Respondents indicating that the City still
14 did not have a compliant Housing Element. The letter warned the City that it would be subject to
15 the Builder’s Remedy so long as it does not have a substantially compliant housing element: “In
16 addition to these legal remedies available in the courts, under the Housing Accountability Act
17 (Gov. Code, § 65589.5, subd. (d)), jurisdictions without a substantially compliant housing element
18 cannot rely on inconsistency with zoning and general plan standards as a basis for denial of a
19 housing project for very low-, low-, or moderate- income households.” (January 3, 2023 Letter
20 from HCD, Page 2)

21 41. On January 31, 2023 – nearly 19 months since HCD rejected its first draft Housing
22 Element submittal – the City Council held a public hearing on, and then adopted, a third draft of
23 the City’s revised 2021-2029 Housing Element

24 42. On February 2, 2023, City staff submitted its most recent 2021-2029 Housing
25 Element to the state Department of Housing and Community Development.

26 43. On April 3, 2023, HCD rejected – for a third time – the City’s draft Housing
27 Element, finding it not in substantial compliance with state housing law. Among other things,
28 HCD rebuked the City for including a project with 264 housing units despite a pending application

1 from the property owner to remove the approved residential units and construct only commercial
2 uses. Additionally, HCD informed the City that it still had not identified adequate sites to meet its
3 RHNA obligation and, as such, it must now identify additional sites to accommodate a total
4 shortfall of 485 lower-income units and 227 above-moderate units.

5 44. On August 31, 2023, HCD sent a “Letter of Inquiry” to the City, demanding a
6 progress update from the City on its housing element which was due on May 15, 2021. In that
7 letter, HCD determined that the City’s delay in achieving compliance is “inconsistent with
8 Government Code section 65588” and “in violation of State Housing Element Law.” Furthermore,
9 HCD stated that it a must notify a local government when it violates state housing laws and that
10 HCD may, when appropriate, refer such violations to the California Office of the Attorney
11 General.

12 45. The August 31, 2023 letter then outlined the various consequences of
13 noncompliance with state housing laws, which include ineligibility for state funds, financial
14 penalties, and an inability to rely on inconsistency with zoning and general plan standards as a
15 basis for denial of “Builders Remedy” projects.

16 46. Finally, and importantly, the letter ends with a call to action, stating that “state
17 housing laws are effective only with the cooperation of local government.”

18 47. The fact that Davis has a deficit of available sites for housing should be no surprise
19 given its history. In the year 2022, the City of Davis issued only 23 building permits for residential
20 units, 17 of which were for accessory dwelling units and 6 of which were for single-family
21 residential units.

22 48. Between the years 2000 and 2020, the population of Davis increased by 6,542
23 persons, a 10.8 percent increase over twenty years. That equates to roughly 0.5% growth
24 annually.

25 49. To put that pace of growth into perspective, between the years 2000 and 2020 the
26 population of Yolo County increased by 28.3 percent, the population of the City of Sacramento
27 increased by 29 percent, Woodland increased by 24.2 percent, and the population of West
28 Sacramento increased by a staggering 70.5 percent.

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57. The Project includes 163 homes ranging in size from studio apartments to four-bedrooms, a minimum of 33 (25.38%) of which will be subject to a deed restriction ensuring that the rental rate for those units does not exceed levels qualifying as affordable to those earning a low-income.³ The Project also includes small for-sale cottages that will participate in a first-time homebuyers program, attached townhome product, opportunity for up to 55 accessory dwelling units, a small-format single-family detached home product, and a more traditionally sized product. The overarching purpose of the Project according to the application is to “provide new homes in Davis designed for and offered at a price that buyers employed in Davis, who have been excluded from living there, can afford.”

58. At the request of the City Manager, Petitioners agreed not to submit a formal project application until after the June, 2022 primary election so as not to jeopardize the likelihood of success of another development project that was subject to a vote of the electorate on that ballot.

³ “Low income” shall be as defined in Section 50079.5 of the Health and Safety Code.

1 Petitioners complied with that request with the understanding that the Respondents would
2 continue to process the Project in a meaningful way.

3 59. For approximately nine months after submitting its pre-application for Palomino
4 Place, Petitioners worked with City staff seemingly advancing the Project. During that time,
5 Petitioners were charged approximately \$100,000 in City fees associated with processing the
6 Project.

7 60. In the Spring of 2022, at the direction of City staff, Petitioners hired consultants to
8 conduct preliminary analysis of the Project's potential traffic impacts, perform a biological survey
9 of the Project site, and had professional planners refine the site design. This work, conducted at
10 the request of the Respondents, cost the Petitioners approximately \$200,000.

11 61. On July 12, 2022, after the other development project for which Petitioners were
12 asked to wait – which included 460 homes – was rejected by the Davis electorate by a vote of
13 64% to 36%, Petitioners formally submitted a project application seeking local land-use
14 entitlements necessary to develop the Project site as a residential neighborhood and paid the fees
15 associated with submittal of that application.

16 62. On August 19, 2022, Petitioners received an email from the Community
17 Development Director, Sherri Metzker, indicating, "I have reviewed your materials and have
18 deemed the application complete." The email also discussed the anticipated completion of the
19 CEQA environmental analysis within one year.

20 63. On or about September 1, 2022, Petitioners were provided a proposed contract
21 between Respondents and Raney Planning and Management ("Raney") for the preparation of a
22 subsequent environmental impact report ("SEIR") to be prepared pursuant to Public Resources
23 Code 21166.

24 64. On or about September 7, 2022 Petitioners were informed by Ms. Metzker that
25 City's contract with Raney would be placed on the City Council's consent calendar for its
26 September 14, 2020 to Council meeting.

27 65. On or about September 13, 2022, Petitioners were informed by City Manager Mike
28 Webb that the Raney contract for environmental review of the Project was being pulled from the

1 Council agenda due to concerns associated with advancing a potentially divisive land use project
2 prior to the November election.

3 66. For the past year, Petitioners and Petitioners' representatives have engaged in
4 numerous conversations with staff and Council and have submitted multiple written requests for
5 the City to proceed with environmental review of this important and much needed housing
6 Project.

7 67. The Petitioners were informed that its contract would be acted upon on January 17,
8 2023, on March 7, 2023, and on June 6, 2023, none of which came to fruition without any logical
9 explanation provided by City staff.

10 68. Despite Petitioners' numerous requests and repeated false starts, the City has taken
11 no formal steps to advance the residential development project since August 19, 2022 – including
12 but not limited to commencing and completing the CEQA review process, circulating the Project
13 for public hearings, or engaging in Project review and drafting of conditions of approval.

14 69. In so doing, Respondents have prejudicially abused their discretion and failed to
15 act in a manner required by law in the following ways:

16 **FIRST CAUSE OF ACTION**

17 **(Violation of the HAA: Effective Denial of a Low-Income Housing Development Project**
18 **Without Making Legally Mandatory Findings)**

19 70. Petitioners hereby incorporate by reference each and every allegation set forth in
20 Paragraphs 1 through 66 above.

21 71. Petitioners assert that Respondents have abused their discretion by not proceeding
22 in a manner required by law by rejecting a housing development project for low-income residence
23 without making the required written findings based on a preponderance of evidence in the record.
24 Rather Respondents have sought to skirt their obligation to proceed in a manner required by law
25 by refusing to compile any evidentiary record on which to render a final determination for or
26 against the Project.

27 72. The Builder's Remedy provision of the HAA limits the ability of a local jurisdiction
28 with a noncompliant Housing Element to "disapprove" a residential development project for low-

1 income households, which it defines as projects in which at least twenty percent (20%) of overall
2 units are deed restricted for low-income residents. With such circumstances, a locality may only
3 disapprove the project if it can make one of five statutorily identified findings based upon a
4 preponderance of the evidence. (Cal. Gov. Code § 65589.5(d)(1-5).)

5 73. The HAA further states that:

6 (b) It is the policy of the state that a local government not reject or make
7 infeasible housing development projects, including emergency shelters, that
8 contribute to meeting the need determined pursuant to this article without a
9 thorough analysis of the economic, social, and environmental effects of the
10 action and without complying with subdivision (d).

11 (Cal. Gov. Code § 65589.5(b), *emphasis added.*) And yet Respondents have refused to commence
12 any analysis of Palomino Place thereby effectively denying the Project and rendering it infeasible.

13 74. The HAA does not exempt a project from complying with CEQA. (Cal. Gov. Code
14 § 65589.5(e).) However, this required CEQA compliance must be squared with the overarching
15 purpose of the HAA which is to streamline the approval of housing and affordable housing. There
16 can be no mistake that the Legislature, in enacting the HAA did not intend that CEQA would be
17 employed to thwart the overall purpose of the Act. As the Act plainly states:

18 (K) The Legislature's intent in enacting this section in 1982 and in expanding
19 its provisions since then was to significantly increase the approval and
20 construction of new housing for all economic segments of California's
21 communities by meaningfully and effectively curbing the capability of local
22 governments to deny, reduce the density for, or render infeasible housing
23 development projects and emergency shelters. That intent has not been fulfilled.

24 (L) It is the policy of the state that this section be interpreted and implemented
25 in a manner to afford the fullest possible weight to the interest of, and the
26 approval and provision of, housing.

27 75. HCD has recognized that jurisdictions may wrongfully engage in undue delay of
28 housing projects by unnecessarily elongating the CEQA process. In response to such attempts,
in its November 22, 2021 letter to the City and County of San Francisco, HCD asserted that a
local jurisdiction may be found to have "effectively denied" or disapprove a housing project
through a process of undue and unnecessary delay in violation of the HAA.

1 specific set of facts; the Project does not require the Council to exercise its legislative function.
2 Though Palomino Place may be inconsistent with both the jurisdiction's zoning ordinance and
3 general plan land use designation, Pursuant to the Builder's Remedy no legislative entitlements
4 are required for the development of the Project. (See Cal. Gov. Code § 65589.5(d)(5); see also
5 Cal. Gov. Code § 65589.5(h)(6)(A).) Instead, only adjudicatory approvals are required. As such,
6 the PSA is applicable.

7 **THIRD CAUSE OF ACTION**

8 **(Violation of CEQA: Failure to Comply with Statutory Time Limits for Commencement** 9 **and Completion of an Environmental Impact Report)**

10 82. Petitioners hereby incorporate by reference each and every allegation set forth in
11 Paragraphs 1 through 81 above.

12 83. Petitioners assert that Respondents have abused their discretion by not proceeding
13 in a manner required by law by failing to comply with statutory timelines associated with the
14 preparation of an EIR.

15 84. Petitioners assert that Respondents have abused their discretion by failing to
16 provide a written determination as to the appropriate level of environmental review within 30
17 days of the date on which an application was received and accepted as complete by the lead
18 agency (Pub. Resources Code § 21080.2); by not "immediately" sending notice of such
19 determination to each responsible agency and the Office of Planning and Research ("OPR") (Pub.
20 Resources Code § 21080.4); by not executing a contract and commencing the environmental
21 review determined to be necessary within 45 days of the date on which the notice of intent to
22 prepare an EIR was sent to responsible agencies (Pub. Resources Code § 21151.5(b)); and by not
23 reasonably attempting to complete an environmental impact report for certification within one
24 year of the date on which the Project application was accepted as complete. (Pub. Resources Code
25 § 21151.5(a); *Sunset Drive Corp. v. City of Redlands*, 73 Cal. App. 4th 215, 222-224.)

26 85. CEQA statutorily requires that a lead agency identify the level of environmental
27 review necessary for a project within 30 days of the project's application being deemed complete.
28 (Pub. Resources Code § 21080.2.) The CEQA Guidelines emphasize that, "EIRs and negative

1 declarations should be prepared as early as feasible in the planning process to enable
2 environmental considerations to influence project program and design...” and that “Public
3 agencies should reduce delay and paperwork by: (a) Integrating the CEQA process into early
4 planning.” (Cal. Code Regs. Tit 14 §15004 and § 15006, respectively, emphasis added.)

5 86. In clear violation of CEQA, the City has not provided Petitioners any written
6 determination pertaining to the level of environmental analysis to be prepared for the Project
7 within the statutorily mandated 30 days from the date on which the application was accepted as
8 complete nor has a Notice of Preparation been released in clear violation of the statute.

9 87. In clear violation of CEQA, Respondents have failed to immediately notify each
10 responsible agency, OPR, and those public agencies having jurisdiction by law over natural
11 resources affected by the project that are held in trust for the people of the State of California,
12 thus precluding said agencies from having an opportunity to provide comments on the scope of
13 the analysis.

14 88. In clear violation of CEQA, Respondents have failed to execute a contract for the
15 preparation of CEQA-mandated environmental analysis with 45 days of determining the level of
16 analysis necessary. This statutory violation has occurred despite a contract for the CEQA analysis
17 having been ready for Council authorization since August 2022 and despite numerous requests
18 by Petitioners to advance the environmental review process.

19 89. Respondents have failed to proceed in a manner required by law by not having
20 adopted local ordinances establishing the time limits for preparation of EIRs and negative
21 declarations. Public Resources Code Section 21151.5(a) states:

22 For projects described in subdivision (c) of Section 21065, each local agency
23 shall establish, by ordinance or resolution, time limits that do not exceed the
24 following:

25 (A) One year for completing and certifying environmental impact reports.

26 (B) One hundred eighty days for completing and adopting negative
27 declarations.

28 (Pub. Resources Code § 21151.5(a)(1).) Petitioners assert that Respondents have abused their
discretion by not proceeding in a manner required by law by failing to adopt such time lines and

1 by making no effort to comply with the one-year statutory maximum duration for the completion
2 of an EIR.

3 90. Despite the Legislature’s use of the words “shall establish,” Courts have held that
4 the one-year timeline of section 21151.5(a) is directory and not mandatory on local jurisdictions.
5 (*Schellinger Brothers v. City of Sebastopol* (2009) 179 Cal.App.4th 1245, 1259-60) The courts’
6 concern has been with mandating that a lead agency “certify” an environmental document,
7 thereby usurping their local discretion. However, it has also been held that the provision is a valid
8 basis to seek a writ of mandate compelling a jurisdiction to prepare the CEQA analysis. (*Sunset*
9 *Drive Corp v. City of Redlands* (1999) 73 Cal.App.4th 215, 221-222) These two holdings lead to
10 the conclusion that the statutory section cannot deprive a local jurisdiction of its discretion over
11 CEQA analysis, but nevertheless, the statutorily mandated one-year timeline can be used to direct
12 a lead agency to actually prepare the requisite analysis.

13 91. It further goes without saying that the Legislature did not include the cited statutory
14 provisions without intending them to serve a purpose. That clear and unambiguous purpose is to
15 ensure that the environmental review required by CEQA is performed and completed within a
16 reasonable timeframe. The need for efficiency in CEQA compliance is considerably magnified
17 by the HAA which seeks to expeditiously increase the construction of homes in the State.

18 **INADEQUATE REMEDY AT LAW**

19 92. Petitioners declare that they have no plain, speedy, and adequate remedy in the
20 ordinary course of law for the improper action of Respondents.

21 **NEWLY PRODUCED EVIDENCE**

22 93. Pursuant to Code of Civil Procedure § 1094.5, subd. (e), Petitioners may, prior to
23 or during the hearing on this Petition, offer additional relevant evidence that could not, in the
24 exercise of reasonable diligence, have been produced during the administrative hearing.

25 **NOTICE**

26 94. Petitioners sent to Respondents – via electronic mail – a written notice of
27 commencement of this action in compliance with Public Resources Code § 21167.5. Copies of
28 this written notice and proof of service are attached as Exhibit B.

1 (c) To suspend any and all activity pursuant to Respondents' action to delay
2 preparation and completion of a legally adequate EIR for the Project, and to fully comply with
3 all requirements of CEQA.

4 4. For an order retaining jurisdiction over the matter during the preparation and
5 certification of an EIR for the Project, with mandatory reporting from Respondent's every three
6 months to ensure compliance;

7 5. As to all Causes of Action: for recovery of attorneys' fees, pursuant to Code of
8 Civil Procedure sections 1021.5 and/or 1036, Government Code section 65598.5 subdivision
9 (k)(1)(A)(ii) and any other relevant provision of law; and

10 6. For any other legal or equitable relief that the Court deems just and proper, and for
11 the costs of the suit herein.

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14 Dated: Sept. 25, 2023

Respectfully submitted,

TAYLOR & WILEY
A Professional Corporation

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17 By:



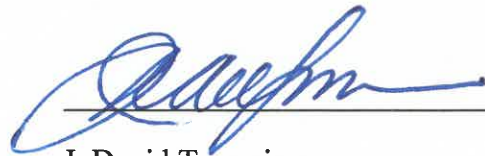
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VERIFICATION

I, J. DAVID TAORMINO, am the managing member of Palomino Place, LLC and am authorized to make this verification for and on behalf of Petitioner PALOMINO PLACE, LLC and in my individual capacity as a citizen in Davis, California. I have read the foregoing Verified Petition for Writ of Mandate and know its contents. I am informed and believe, and on that ground allege, that the matters stated in the Verified Petition for Writ of Mandate are true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 22nd day of September, 2023, at Davis, California



J. David Taormino