NOS. A159320 & A159658

IN THE COURT OF APPEAL
OF THE STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT, DIVISION FOUR

CALIFORNIA RENTERS LEGAL ADVOCACY
AND EDUCATION FUND, et al.,
Petitioners and Appellants,
v.
CITY OF SAN MATEO, et al.,
Defendants and Respondents.

ON APPEAL FROM AN ORDER DENYING PETITION FOR WRIT OF MANDATE, JUDGMENT, AND ORDER DENYING MOTION TO VACATE / MOTION FOR NEW TRIAL
Superior Court of San Mateo County, Case No. 18CIV02105
Honorable George A. Miram

APPLICATION OF CALIFORNIANS FOR HOMEOWNERSHIP AND THE CALIFORNIA ASSOCIATION OF REALTORS® FOR LEAVE TO FILE A BRIEF, AS *AMICUS CURIAE*, IN SUPPORT OF APPELLANTS, AND PROPOSED BRIEF

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I. INTRODUCTION AND NATURE OF INTEREST

Californians for Homeownership ("Californians") and the California Association of REALTORS® ("C.A.R.") respectfully request leave, under Rule 8.200(c) of the California Rules of Court, to file the attached *amicus curiae* brief.

Californians was founded in 2018 in response to the Legislature's call for increased private nonprofit enforcement of California's housing laws. (See Gov. Code § 65589.5(k) [formalizing concept of standing for "housing organizations" under the Housing Accountability Act].) It is a 501(c)(3) non-profit charity formed to address California's housing crisis by using legal tools to support the production and availability of housing affordable to families at all income levels. To advance this mission, its primary activity is litigation against cities that engage in exclusionary or obstructive zoning and land use practices. It was founded by the C.A.R., from which it receives operational and financial support.

Californians' work gives a voice to those in need of housing—a voice that is systematically ignored in California's system for making land use decisions. Housing needs are a statewide concern, but land use authority in California is distributed among over 500 local jurisdictions. The result is the creation of significant local barriers to new housing construction, even in the face of ever-increasing regional housing needs. Although landowners and developers can play a role in representing the interests of future residents, they are not particularly well-suited to the task. The primary interest of owners of development property is usually to advance the most economically productive use of their property. As a result, localities can convince developers to alter plans to opt for a smaller number of units at a less-affordable price. It is critical, then, that

organizations like Californians fill the gap by representing the public interest in the development of additional housing.

C.A.R. is a voluntary trade association whose membership consists of approximately two hundred thousand (200,000) persons licensed by the State of California as real estate brokers and salespersons and the local Associations of REALTORS® to which those members belong. Members of C.A.R. assist the public in buying, selling, leasing, financing and managing residential and commercial real estate. C.A.R. advocates for the real estate industry by bringing the perspective of the industry as a whole rather than the singular perspective of a particular constituent or litigant.

For years, C.A.R. has worked to address the housing affordability crisis within the State of California by actively promoting housing, homeownership, and the growth of housing opportunities statewide. In addition to providing down payment and closing cost assistance to homebuyers through its Housing Affordability Fund, C.A.R. has supported various legislative initiatives aimed at increasing the housing supply in California, including the Legislature's recent enhancements to the Housing Accountability Act, the statute at issue in this case.

Californians and C.A.R. offer this *amicus* brief to provide additional information and context about the interaction between the Housing Accountability Act and the Legislature's broader approach to solving California's housing crisis. This perspective on the state's interconnected legislative scheme for addressing the housing crisis is particularly important because the Trial Court's decision holds a key housing statute unconstitutional as applied to charter cities, an outcome that would have wide-ranging impacts on other state housing laws.

Additionally, Californians is one of only three non-profit organizations in the state actively pursuing impact litigation using the

provision for "housing organization" standing under the Housing Accountability Act. It offers its perspective as a "user" of this critical tool to increase the supply of housing.

II. IDENTIFICATION OF AUTHORS AND CONTRIBUTORS

No party or counsel for a party in the pending appeal authored the proposed *amicus* brief in whole or part. No party or counsel for a party in the pending appeal, or any other person, made a monetary contribution intended to fund the preparation or submission of the brief.

III. REQUEST FOR PERMISSION TO FILE AMICUS BRIEF

Counsel for Californians and C.A.R. have read the decision below along with the parties' briefs filed to date, and are familiar with the issues presented to this Court. For the reasons stated above, Californians and C.A.R. respectfully request that the Court accept the accompanying *amicus curiae* brief.

Dated: March 31, 2021

By _____/s/ Matthew P. Gelfand_____
Matthew P. Gelfand

For *Amici Curiae*, Californians for Homeownership and the California Association of REALTORS®

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BRIEF, *AMICUS CURIAE*, OF THE CALIFORNIA ASSOCIATION OF REALTORS® AND CALIFORNIANS FOR HOMEOWNERSHIP IN SUPPORT OF APPELLANTS

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I. INTRODUCTION

California is in crisis. "California housing has become the most expensive in the nation," and "[t]he lack of housing . . . is a critical problem that threatens the economic, environmental, and social quality of life in California." (Gov. Code § 65589.5(a).) In the last several years, the Legislature has observed that the housing crisis has reached "historic proportions." (*Id.*)

At the core of the housing crisis is a failure to build enough housing to meet demand. This failure is driven by local policies that disfavor the development of new housing. While California's housing deficit is a statewide concern, driven by regional job and population growth, land use policy is made in over 500 separate city halls and county halls of administration across the state. City officials are elected by local residents and answer to residents' preferences rather than the housing needs of future residents. Cities work to minimize new housing within their borders while reaping the benefits of regional economic growth, assuming that a neighboring jurisdiction will shoulder the burden of housing the region's workers. The result has been disaster.

At issue in this case is the Housing Accountability Act, which sets forth a straightforward set of rules that the Legislature has adopted to facilitate the development of housing and help finally put an end to the crisis. The Act can be summarized simply: it requires cities and counties to adopt land use rules that can be understood by applicants seeking to develop housing, and to which those applicants can conform their housing development proposals.

Every substantive element of the Act is designed to further this simple regulatory scheme. The Act requires that standards be objective rather than subjective, so that property owners and city staff can work together to craft standards-compliant housing developments. The Act

applies a reasonable-person test for standards compliance so that applicants will not face surprise disapprovals by elected officials, at the behest of unhappy residents. And the Act provides an escape hatch for projects that would have severe impacts on public health and safety, in the event that a city has genuinely and seriously misestimated the impact of allowing a certain form of development on a particular site.

In any other regulatory context, these rules would be non-controversial. But they eliminate what some local governments see as their last line of defense against housing: the option to issue a project-specific veto over a proposed housing development project, regardless of zoning compliance.

Today's Housing Accountability Act, unlike prior efforts, goes a long way toward eliminating this retained veto. So California's charter cities have resorted to the argument—advanced here by the City of San Mateo and accepted by the Trial Court—that the Act unconstitutionally impinges on charter cities' home rule authority by depriving those cities of the project-specific veto power.

If the Court endorses this view, or any of the other arguments advanced by San Mateo, the result will be the collapse of the Legislature's system for addressing the housing crisis, a system that has been decades in the making. At the core of this system is the requirement that every city and county develop land use rules that enable the development of a certain amount of housing. But those plans are only as effective as the mechanisms in place to enforce them. If local elected officials are permitted to veto projects that comply with local policies, cities will be free to adopt nominally compliant housing plans without ever having to approve a single housing development project. The Legislature's carefully crafted housing planning process would become little more than an expensive charade.

It would also be manifestly unfair to exempt California's charter cities from complying with the straightforward objectivity standards in the Housing Accountability Act. The state's major job centers and areas of opportunity are disproportionately concentrated in charter cities. The Legislature recognized that these cities should not be allowed to reap the benefits of economic growth while shrugging off onto general law cities one of the most critical items of infrastructure to support that growth: housing for workers and their families. What's more, pushing housing development away from job centers would have a catastrophic impact on California's clean air and climate goals.

The housing crisis is a statewide crisis requiring statewide solutions. The Housing Accountability Act is a critically needed and constitutionally sound piece of that puzzle, and the Trial Court erred when it held otherwise.

II. LEGAL ARGUMENT

A. To Address California's Historic Housing Crisis, The Legislature Has Adopted An Interconnected System For Facilitating Residential Development.

1. California Is Experiencing A Housing Crisis Of Historic Proportions.

For decades, California has experienced a significant housing access and affordability crisis. (Gov. Code § 65589.5(a)(1) [legislative findings describing crisis as of 1990].) In recent years, this crisis has reached "historic proportions." (Gov. Code § 65589.5(a)(2) [additional legislative findings describing crisis as of 2017].)

As a result of the housing affordability crisis, younger Californians are being denied the opportunities for housing security and homeownership that were afforded to previous generations. Families across economic strata are being forced to rent rather than experience the wealth-building benefits of homeownership.[1] Many middle and lower income families devote more than half of their take-home pay to rent, leaving little money to pay for transportation, food, healthcare and other necessities.[2] Unable to set aside money for savings, these families are also at risk of losing their housing in the event of a medical issue, car trouble, or other personal emergency.

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1 California Department of Housing and Community Development, *California's Housing Future: Challenges and Opportunities: Final Statewide Housing Assessment 2025* (2018), *available at* http://www.hcd.ca.gov/policy-research/plans-reports/docs/SHA_Final_Combined.pdf, at pp. 18-19.

2 *Id.* at p. 27.

Indeed, housing insecurity in California has led to a mounting homelessness crisis.[3] The Legislature recently observed:

> The consequences of failing to effectively and aggressively confront this crisis are hurting millions of Californians, robbing future generations of the chance to call California home, stifling economic opportunities for workers and businesses, worsening poverty and homelessness, and undermining the state's environmental and climate objectives.[4]

Beyond the human toll, California's housing crisis harms the environment. Because there is inadequate housing supply to meet demand near major job centers, workers are forced to commute long distances to find housing they can afford. "[W]hen Californians seeking affordable housing are forced to drive longer distances to work, an increased amount of greenhouse gases and other pollutants is released and puts in jeopardy the achievement of the state's climate goals." (Gov. Code § 65584.)

At the core of California's affordable housing crisis is a failure to build enough housing to meet demand. Today, California ranks 49th out of the 50 states in existing housing units per capita.[5]

2. California's Cities Have Precipitated The Housing Crisis By Enacting Exclusionary Land Use Policies That Favor The Preferences Of Residents Over Regional Housing Needs.

"The excessive cost of the state's housing supply is partially caused by activities and policies of many local governments that limit the approval of housing . . . . Among the consequences of those actions are

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3 *Id.* at pp. 3, 48-50.

4 Gov. Code § 65589.5(a)(2)(A).

5 McKinsey & Company, *A Tool Kit to Close California's Housing Gap: 3.5 Million Homes By 2025* (2016), *available at* https://www.mckinsey.com/~/media/McKinsey/Industries/Public and Social Sector/Our Insights/Closing Californias housing gap/Closing-Californias-housing-gap-Full-report.pdf at document page 6.

discrimination against low-income and minority households, lack of housing to support employment growth, imbalance in jobs and housing, reduced mobility, urban sprawl, excessive commuting, and air quality deterioration." (Gov. Code § 65589.5(a)(1)(C).) The term "NIMBY"—or "Not in My Backyard"—is used to describe these policies. NIMBY policies are used across California to delay, reject, and downsize housing development projects, especially projects that might increase access to affordable housing.

NIMBY policies are the natural consequence of California's land use system, which traditionally entrusts land use policy-making to city and county officials elected by local residents. Whatever the realities, local residents often believe that new housing will tax limited city resources, create crowded conditions, and threaten the character of their residential neighborhoods.[6] Housing projects with affordable housing components can draw especially strong opposition, driven by residents' perceptions of low-income individuals.[7] These residents elect city councilmembers and county supervisors who share their fears, and they turn out in large numbers to

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[6] Emily Badger, *How 'Not in My Backyard' Became 'Not in My Neighborhood'*, N.Y. Times, Jan. 3, 2018, *available at* https://www.nytimes.com/2018/01/03/upshot/zoning-housing-property-rights-nimby-us.html; Jeremy Robitaille & Rachel G. Bratt, *Fear of Affordable Housing: Perception vs. Reality*, Shelterforce, Oct. 10, 2012, *available at* https://shelterforce.org/2012/10/10/fear_of_affordable_housing_perception_vs-_reality/; Mark Obrinsky & Debra Stein, *Overcoming Opposition to Multifamily Rental Housing* (2007), *available at* http://www.jchs.harvard.edu/sites/default/files/rr07-14_obrinsky_stein.pdf.

[7] See, e.g., J.K. Dineen, *In a wealthy SF neighborhood, residents fight low-income housing*, S.F. Chron., Nov. 16, 2016, *available at* https://www.sfchronicle.com/bayarea/article/In-a-wealthy-SF-neighborhood-residents-fight-10617213.php.

oppose proposed housing development projects and pro-housing ordinances.[8]

The voices of those in need of housing, by contrast, are systematically ignored. Potential future housing occupants—job-seekers from elsewhere in the state or country, the minor children of local residents, and those forced to commute from far-flung parts of the region due to the lack of affordable housing, among others—have no vote in local elections. And landowners who are interested in developing housing are no better off, because owning that land does not entitle them to vote in local elections.

When local voters *do* acknowledge the need for additional housing, it is often with the understanding that other localities should shoulder the burden of providing that housing. But with local residents controlling each city in a region, anti-housing policies predominate. The result is the creation of barriers to new housing construction across regions, even in the face of recognized regional housing needs.

While eschewing housing development, these same cities warmly welcome local and regional economic growth, including job growth. While this growth pays economic dividends for cities and their existing homeowners, it exacerbates a region's jobs/housing imbalance and can leave even high-paid technology industry workers unable to afford housing.[9]

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[8] E.g. id.; Mike Harris, *Opposition to proposed four-story Simi Valley apartment complex growing*, V.C. Star, Feb. 1, 2018, *available at* https://www.vcstar.com/story/news/local/communities/simi-valley/2018/02/01/reidentsresistanceroposed-simi-development-including-278-unit-residential-complex-opposed-many-resid/1067895001/.

[9] Press Release, Metropolitan Transportation Commission, *New Vital Signs Data: Sluggish Housing Production Tightens Bay Area's Housing Crunch* (Sept. 10, 2018), *available at* https://mtc.ca.gov/whats-happening/news/new-vital-signs-data-sluggish-housing-production-tightens-bay-areas-housing; Marisa Kendall, *Buying a Bay Area home is now a stretch even for Apple and Google engineers*, L.A. Times, Feb. 16,

3. California's RHNA And Housing Element Laws Require Cities To Plan For Sufficient Housing To Meet Regional Needs.

Over the last five decades, the Legislature has increasingly sought to address the power imbalance at play in local housing policy. The most important state policy addressing the housing crisis is the Regional Housing Needs Allocation ("RHNA") and Housing Element system.

The RHNA system is a process for assessing and allocating housing targets on a periodic basis, generally every eight years. (Gov. Code § 65588.) It starts with an assessment of statewide housing needs by the California Department of Housing and Community Development. The Department allocates the state's anticipated housing needs on a region-by-region basis, at different levels of affordability, based on established criteria. (Gov. Code §§ 65584.01, 65588.) This need is then usually meted out to individual localities by a regional council of governments. (Gov. Code § 65584.05.) The regional councils of governments and the individual localities each have an opportunity to challenge the allocations. (*See* Gov. Code §§ 65584.01, 65584.05.)

Once the allocations are final, each locality is tasked with developing an action plan (the Housing Element) to enact land use policies that will produce enough housing to meet its RHNA goals. (Gov. Code §§ 65583, 65583.2.) The Housing Element must provide an inventory of sites available for residential development and assess constraints and market realities that affect the likely development activity at those sites, including local land use regulations. (*Id.*) Localities must make changes to their land use rules, including by rezoning land, if needed to enable housing sufficient to meet their RHNA goals. (Gov. Code § 65583(c), 65583.2(h).)

2018, *available at* https://www.latimes.com/business/la-fi-bay-area-home-price-20180215-story.html.

4. To Address Efforts To Undermine The Effectiveness Of The RHNA And Housing Element Planning Process, The Legislature Adopted The Revised Housing Accountability Act.

The RHNA and Housing Element laws are effective at eliminating straightforward, explicit efforts to limit housing production. But because local governments control most of the RHNA and Housing Element planning process, the process requires their good faith cooperation to succeed. Many cities instead work to undermine the system, treating it as an inconvenient chore rather than a serious effort to develop good housing policy. As one city councilmember observed:

> What I'm seeing here is an elaborate shell game, because we're kind of lying. It's the only word I can come up with. We have no intention of actually building the units, but we're going to make an overlay that says we will.[10]

Most critically, cities incorporate intentionally vague and subjective standards into their land use policies. These vague and subjective standards guarantee that cities will be able to find mechanisms to reject any project if community opposition is strong enough—even where a city used the potential development of that very parcel to meet its RHNA and Housing Element obligations. Because of this retained veto, from a practical perspective, developers cannot rely on local land use policies as binding commitments to allow housing development on a particular site.

Through these efforts, cities have successfully subverted the RHNA and Housing Element planning process and have continued to engage in land use policies designed to exclude new housing construction.

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[10] Liam Dillon, C*alifornia Lawmakers Have Tried for 50 Years to Fix the State's Housing Crisis. Here's Why They've Failed*, L.A. Times, June 29, 2017, *available at* https://www.latimes.com/projects/la-pol-ca-housing-supply/.

In recent years, the Legislature has responded with an expansive package of housing-related bills. Among these were key enhancements to the Housing Accountability Act. First passed in the 1980s, the Housing Accountability Act aims to eliminate local project-specific vetoes by limiting the right of localities to reject zoning-complaint housing development projects. The law was rarely invoked, but in 2017 the Legislature breathed new life into it by adding additional penalties for non-compliance, changing the burdens and standards of proof, and providing a statutory right of action for nonprofit organizations to sue to enforce the law. (Stats. 2016 c. 420 [AB 2584] § 1; Stats. 2017 c. 378 [AB 1515] § 1.5.)

Today, the Act limits local review of standards-compliant housing development projects in three key ways:

- The Act requires cities to apply *objective* rather than *subjective* criteria to determine whether a project qualifies as standards-compliant. If a city considers a project out of compliance with its objective land use standards, it must make specific findings to that effect within a prescribed period. Otherwise, the project is deemed compliant. (Gov. Code § 65589.5(j).)

- The Act requires cities to treat a project as standards-complaint "if there is substantial evidence that would allow a reasonable person to conclude" that the project is compliant. (Gov. Code § 65589.5(f)(4).)

- The Act has special provisions that make it harder to reject housing development projects with designated affordable housing components. (Gov. Code § 65589.5(d).)

These limits require cities to adopt high-quality, specific land use rules that housing developers and city staff can reliably use to guide the creation of standards-compliant housing development proposals.

* * *

Taken together, the RHNA and Housing Element process and the modern Housing Accountability Act form an interconnected system for addressing the role of local governments in California's housing crisis. The RHNA and Housing Element laws require cities to assess and modify their land use policies to ensure that they can accommodate necessary additional housing. The Housing Accountability Act ensures that cities live up to those land use rules in the years that follow, and that the rules set forth objective criteria that housing developers can understand and to which they can conform their proposals.

B. The Arguments Advanced By San Mateo Would Allow Cities To Retain Broad Veto Rights Over Housing Development Projects, Undermining The Legislature's Interconnected System For Addressing The Housing Crisis.

If the Housing Accountability Act is deemed unconstitutional, consistent with the Trial Court's extraordinary decision, local elected officials would be free to establish subjective rules and to reject housing development projects with little risk. This would be a wholesale repudiation of the Legislature's effort to address the statewide housing crisis.

But each of the lesser alternatives suggested by San Mateo would have the same practical effect:

- If the Court accepts the argument that charter cities are constitutionally exempt from the application of paragraph (f)(4) of

the Act, Respondents' Brief[11] at 60-62, charter city elected officials will be free to ignore the reasonable understanding of a development standard, shared by a property owner and city staff, that has been used to craft a standards-compliant project. This would make it impossible to reliably propose standards-compliant housing development projects.

- If the Court accepts the argument that paragraph (f)(4) governs only pure issues of fact and defers to San Mateo's *post hoc* interpretation of its development standards as a "legal interpretation," Respondents' Brief at 49-53, cities will be free to sidestep paragraph (f)(4)'s limits by characterizing project-specific vetoes as involving new interpretations of city standards, entitled to judicial deference. The point of paragraph (f)(4) is to eliminate surprise denials, not to force cities to recharacterize them.
- If the Court accepts the argument that the City's Height Variation Guideline is somehow both "objective" and susceptible to these alternative interpretations, Respondents' Brief at 43-48, cities will be free to adopt standards to which applicants cannot reliably conform their proposals. Again, this would allow project-specific vetoes based on alternative interpretations of purportedly objective standards, when the purpose of requiring objective standards is to eliminate the sorts of differences in interpretation that result in surprise denials.

Ultimately, any of these outcomes would fundamentally undermine the Legislature's interconnected system for addressing the housing crisis. Local housing policies do not exist in a vacuum, and they are not freely

[11] Citations are to the brief in response to Appellants' Brief, except as otherwise noted.

changeable. The RHNA and Housing Element laws require cities to plan for housing and to adopt land use standards that allow development consistent with those plans. The state Department of Housing and Community Development reviews local development standards and determines whether cities have planned for sufficient housing development based on those standards. And cities are sharply limited in their ability to adopt new limits on housing inconsistent with their Housing Elements.

This system relies on the Housing Accountability Act to ensure that sites planned for housing will actually be developable consistent with those plans. If the Act is curtailed and local governments are allowed to retain a project-specific veto for housing development projects, the RHNA and Housing Element planning process will become meaningless. Cities will be free—as they have been in the past—to identify sites for housing development and to point to written policies promoting housing development in order to satisfy their RHNA obligations, only to reject housing development projects actually proposed for those sites and under those policies. Indeed, this is exactly the sort of conduct that drove the Legislature to adopt the recent changes to the Housing Accountability Act, including paragraph (f)(4). (See Gov. Code § 65589.5(a)(2)(k).)

Because the Housing Accountability Act is a narrowly tailored, integral part of the Legislature's statutory regime for addressing the housing crisis, a critical statewide concern, it is constitutional as applied to charter cities. (*See Anderson v. City of San Jose* (2019) 42 Cal. App. 5th 683, 718; *Coalition Advocating Legal Housing Options v. City of Santa Monica* (2001) 88 Cal. App. 4th 451, 458; *Buena Vista Gardens Apartments Assn. v. City of San Diego Planning Dept*. (1985) 175 Cal. App. 3d 289, 306-07.) And for the reasons explained above and in the Respondents' and Intervenor's briefs, the statutory arguments made by San Mateo are without merit.

C. The Trial Court's Decision Unfairly Puts The Burden Of Providing Housing On California's General Law Cities, Creating A Disjointed Patchwork System For Addressing The Housing Crisis.

The constitutionality arguments advanced by San Mateo would also create a disjointed patchwork of land use policies, with general law cities required to work to address the housing crisis while charter cities remain free to ignore the crisis and eschew housing development, even as they reap most of the benefits of the economic growth that is driving the need for housing.

The vast majority of California's cities—361 out of 482—are general law cities.[12] But major job centers and areas of opportunity are disproportionately concentrated in charter cities. In the Bay Area, charter cities include the City and County of San Francisco, as well as Berkeley, Mountain View, Oakland, Redwood City, San Francisco, San Jose, and San Mateo, among others. In Southern California, they include the Cities of Los Angeles and San Diego, as well as Anaheim, Burbank, Glendale, Irvine, Los Angeles, Long Beach, Pasadena, Riverside, San Bernardino, Santa Ana, and Ventura. Bakersfield, Sacramento, San Luis Obispo, and Santa Barbara are also charter cities.

These are the places where new housing is needed the most, and the jobs/housing imbalance in these major job centers is driving the state's housing crisis. Yet these are the very same cities seeking to shrug off the work of providing housing, onto the state's general law cities. Every housing unit not developed in a charter city job center, based on the application of subjective rules or a project-specific veto, is another unit that will need to be developed in a general law city. If applicants and housing advocates are stripped of the ability to hold charter cities accountable to the

[12] https://www.cacities.org/Resources/Learn-About-Cities

plans they make in the RHNA and Housing Element process, the Legislature will be increasingly forced to impose state housing law reforms on general law cities to pick up the slack. This is exactly the outcome the Legislature sought to avoid when it deemed the housing crisis a statewide issue and decided to apply the Housing Accountability Act to charter cities. (Gov. Code § 65589.5(g).)

Beyond the basic unfairness of forcing general law cities to shoulder the burden of addressing the state's housing crisis alone, this outcome would also seriously undermine the state's clean air and climate goals. General law cities tend to be further from job centers and less connected to high-quality public transit than charter cities. As an example, the Los Angeles Metro Rail system covers 93 stations, approximately 86% of which are located in the City of Los Angeles (a charter city), unincorporated Los Angeles County (a charter county), or one of the eight other charter cities connected to the system.[13]

When major job centers rely on general law cities to provide new housing, the result is longer commutes and increased reliance on cars for commuting, increasing tailpipe and greenhouse gas emissions. In adopting the Housing Accountability Act and its recent enhancements, the Legislature specifically sought to address these environmental harms in addition to the social and economic harms associated with the affordable housing crisis. (Gov. Code §§ 65589.5(a)(1)(D), (a)(2)(A), (a)(2)(I).)

As the Court weighs the arguments made by San Mateo in this case, it is crucial to consider the impact of any decision on the division of labor between the state's charter and general law cities. Work not done by charter cities will need to be done by general law cities. These extrajurisdictional impacts are exactly what makes the affordable housing

[13] *See* https://media.metro.net/documents/a5e11b4f-11ac-4807-8cd2-0e7cff6aa94e.pdf

crisis a critical matter of statewide concern and an appropriate target for state legislation. (See *Anderson*, 42 Cal. App. 5th at 718; *Coalition Advocating Legal Housing Options*, 88 Cal. App. 4th at 458; *Buena Vista Gardens Apartments Assn.* 175 Cal. App. 3d at 306-07.)

III. CONCLUSION

For all the reasons specified in this brief and those specified in Appellants' and Intervenor's Opening and Reply briefs, we urge this Court to reverse the decision of the Trial Court.

Dated: March 31, 2021

By /s/ Matthew P. Gelfand
Matthew P. Gelfand

For *Amici Curiae*, Californians for Homeownership and the California Association of REALTORS®

CERTIFICATE OF WORD COUNT

(Cal. Rules of Court Rule 8.204(c)(1))

The text of this brief consists of **3,962** words (including footnotes) as counted by the Microsoft Office Word 2019 word-processing program used to generate this brief.

Dated: March 31, 2021 By _____/s/ Matthew P. Gelfand_____
Matthew P. Gelfand

PROOF OF SERVICE

I am a resident of the State of California and over the age of eighteen years, and not a party to this action. My business address is 525 S. Virgil Ave. Los Angeles, California 90020. On March 31, 2021, I served the foregoing document on the interested parties in this action follows:

☒ by United States mail from Los Angeles, California addressed as set forth below and deposited on the date below:

San Mateo County Superior Court
Attn: Judge George A. Miram
400 County Center, Dept. 28
Redwood City, CA 94063

☒ by electronic service through TrueFiling on all registered parties, including as set forth below:

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I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on March 31, 2021 at Los Angeles.

/s/ Matthew P. Gelfand
Matthew P. Gelfand