

1 KENNETH A. STAHL (Bar No. 326495)
MILLER STARR REGALIA
2 A Professional Law Corporation
1331 N. California Blvd., Fifth Floor
3 Walnut Creek, California 94596
Telephone: (925) 935-9400
4 Facsimile: (925) 933-4126
Email: ken.stahl@msrlegal.com
5

6 Attorneys for Petitioners CALIFORNIA
7 RENTERS LEGAL ADVOCACY &
EDUCATION FUND and THDT
INVESTMENT, INC.

8
9
10 SUPERIOR COURT OF THE STATE OF CALIFORNIA
11 COUNTY OF ORANGE, CENTRAL JUSTICE CENTER

12 CALIFORNIA RENTERS LEGAL
13 ADVOCACY & EDUCATION FUND and
THDT INVESTMENT, INC.,

14 Petitioners,

15 v.

16 CITY OF HUNTINGTON BEACH,

17 Respondent.

Case No. 30-2020-01140855-CU-WM-CJC

18 NOTICE OF MOTION AND MOTION TO
19 ISSUE WRIT OF MANDATE

Judge: Hon. Deborah Servino

Date: June 4, 2021

Time: 10:00 a.m.

Dept.: C21

20 ASSIGNED FOR ALL PURPOSES TO:
21 HON. DEBORAH SERVINO
DEPARTMENT C21

Reservation No.: 73478429

Action Filed: May 26, 2020

22 **TO ALL PARTIES AND THEIR COUNSEL OF RECORD:**

23 PLEASE TAKE NOTICE that on June 4, 2021, at 10:00 a.m., or as soon thereafter as
24 counsel may be heard, in Department C21 of the above-entitled court located at 700 Civic Center
25 Drive West, Santa Ana, California, Petitioners CALIFORNIA RENTERS LEGAL ADVOCACY
26 & EDUCATION FUND and THDT INVESTMENT, INC. will and hereby do move the court to
27 (1) grant their Petition for Writ of Mandate by issuing a writ, pursuant to Code of Civil Procedure
28 Section 1094.5 and Government Code Section 65589.5, reversing the City of Huntington Beach's

1 February 18, 2020 decision denying the application to develop the Project at 8041 Ellis Avenue;
2 (2) issue an order under Government Code Section 65589.5(k)(1)(A)(ii) requiring approval of the
3 Project; and (3) determine that Petitioners are entitled to attorney's fees and costs of suit under
4 subdivisions (k)(1)(A)(ii) and (k)(2) of Government Code Section 65589.5 and order further
5 briefing to determine the amount of fees and costs to be awarded.

6 Petitioners are entitled to this relief because the City's denial of the Project violated the
7 Housing Accountability Act, Government Code Section 65589.5. The City failed to meet its
8 burden of proving that the Project did not comply with all applicable objective land use standards
9 or that the project would have a substantial and unavoidable health or safety impact.

10 This motion is based upon (1) this notice of motion and motion, (2) the Amended Petition,
11 (3) the accompanying Memorandum of Points and Authorities, (4) the accompanying Request for
12 Judicial Notice, (5) the entire administrative record, (6) all other documents in the Court's files,
13 and (7) any other evidence and argument as may be presented at or before the hearing on this
14 motion.

15 Dated: April 5, 2021

MILLER STARR REGALIA

16

17

By:



18

Kenneth A. Stahl

19

Attorneys for Petitioners CALIFORNIA

20

RENTERS LEGAL ADVOCACY &

21

EDUCATION FUND and THDT INVESTMENT,

22

INC.

23

24

25

26

27

28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

PROOF OF SERVICE

California Renters Legal Advocacy and Education Fund, and THDT Investment, Inc. v. City of Huntington Beach

Orange County Superior Court, Case No. 30-2020-01140855-CU-WM-CJC

At the time of service, I was over 18 years of age and not a party to this action. I am employed in the County of Contra Costa, State of California. My business address is 1331 N. California Blvd., Fifth Floor, Walnut Creek, CA 94596.

On April 5, 2021, I served true copies of the following document(s) described as **NOTICE OF MOTION AND MOTION TO ISSUE WRIT OF MANDATE** on the interested parties in this action as follows:

<p>Matthew Gelfand 525 S. Virgil Ave. Los Angeles, CA 90020 Tel: 213-739-8206 Fax: 213-480-7724 matt@caforhomes.org</p> <p><i>Attorneys for Petitioner in related case Californians for Homeownership</i></p>	<p>Brian Williams Chris Kelemen Michael Gates Jemma Dunn City of Huntington Beach 2000 Main St. Huntington Beach, CA 92648 Tel: 714-536-5555 Fax: 714-374-1590 brian.williams@surfcity-hb.org chris@surfcity-hb.org michael.gates@surfcity-hb.org jemma.dunn@surfcity-hb.org</p> <p><i>Attorneys for Respondent, City of Huntington Beach</i></p>
---	---

BY ELECTRONIC SERVICE: I electronically filed the document(s) with the Clerk of the Court by using the One Legal system. Participants in the case who are registered users will be served by the One Legal system. Participants in the case who are not registered users will be served by mail or by other means permitted by the court rules.

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

Executed on April 5, 2021, at Martinez, California.

Karen L. Irias