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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

CALIFORNIA RENTERS LEGAL ADVOCACY
AND EDUCATION FUND, CAROLYN TAO,
NELSON TAO,

Plaintiffs,

v.

THE CITY OF RANCHO PALOS VERDES,
THE CITY OF RANCHO PALOS VERDES
COMMUNITY DEVELOPMENT
DEPARTMENT,

Defendants.

Case No. **22STCP02352**

**VERIFIED PETITION FOR WRIT OF
MANDATE AND COMPLAINT FOR
INJUNCTIVE AND DECLARATORY RELIEF**

[CCP §§ 525, 526, 1060, 1085; Gov. Code §
65852.2]

1 **INTRODUCTION**

2 1. California is in the midst of an unprecedented housing crisis. According to a census data
3 analysis conducted by the Public Policy Institute of California, the state has added 3.2 times more people
4 than housing units between 2010 and 2020. Last year, the median price of a home in California
5 surpassed \$800,000. Many Californians face insurmountable barriers to finding an affordable place to
6 live.

7 2. Accessory dwelling units (“ADUs”), also known as “granny flats,” have in recent years
8 taken on new prominence as a weapon deployed by California legislators against the housing crisis. In
9 2016, the State Legislature passed the first in a series of laws to liberalize their construction by, among
10 other things, making the approval of certain “interior” or “attached” ADUs, built within an existing
11 dwelling, mandatory so long as the proposed ADU is up to code and meets certain basic requirements.
12 This substantially reduced the barriers to the construction of qualifying ADUs because local
13 municipalities were no longer able to delay or prevent their construction—or increase their cost—by
14 imposing aesthetic architectural and design review standards on their builders. In 2019, the State
15 Legislature further lifted restrictions on ADU construction by, among other things, making certain types
16 of detached ADUs built on an existing single-family lots also subject to this sort of mandatory,
17 ministerial approval.

18 3. While support for pro-housing initiatives in California has increased as the depth and
19 severity of the housing crisis has become clear, some municipalities have nonetheless dug in their heels
20 against even these sorts of modest, incremental measures to encourage construction of new units. The
21 Respondents City of Rancho Palos Verdes and its Community Development Department (collectively
22 referred to in this petition as “the City”) are a case in point. Faced with a state mandate to allow the
23 construction of basic detached ADUs that are up to code without subjecting their plans to burdensome
24 architectural and design review, the City has decided simply to ignore the law. The City is counting on
25 the fact that challenges to this sort of unlawful regulation are expensive and difficult to mount, and rarely
26 worth it for a homeowner who simply wants to build a small granny flat on their property.

27 4. The City unlawfully denied Petitioners Nelson and Carolyn Tao’s proposal for a small
28 495-foot ADU, to be built twenty-two feet from their existing single-family home. The only grounds

1 given for the denial were the proposed ADU's failure to comply with local architectural design standards
2 whose imposition on the Tao Petitioners' proposed ADU is clearly barred by state law. Petitioners have
3 been left with no choice but to ask the Court to enforce the law in the face of the City's bald-faced refusal
4 to comply with it. Petitioners thus bring this petition seeking alternative and peremptory writs of
5 mandate pursuant to Code of Civil Procedure § 1985, as well as declaratory and injunctive relief, to
6 compel the City to ministerially approve the Tao Petitioners' ADU permit application, as the City had a
7 mandatory duty under state ADU law to do.

8 **PARTIES**

9 5. Petitioners and Plaintiffs Nelson and Carolyn Tao (sometimes referred to herein as the
10 "Tao Petitioners") are a married couple residing at 7026 Larkvale Drive, Rancho Palos Verdes,
11 California 90175. They are the applicants for the ADU permit that the City denied but had a mandatory
12 duty to ministerially approve.

13 6. Petitioner and Plaintiff California Renters Legal Advocacy and Education Fund
14 ("CaRLA") is a California nonprofit corporation in good standing in this state, and lawfully allowed to
15 bring and maintain this Petition and Complaint. CaRLA's mission is to promote housing growth and
16 affordability in California through education and legal advocacy. As part of this mission CaRLA assists
17 homeowners seeking to develop ADUs under the new provisions of state law, and advocates for swift
18 and proper implementation of these laws by local governments throughout the state. CaRLA brings this
19 Petition on its own behalf, on behalf of other homeowners in Rancho Palos Verdes who have been or will
20 soon be wrongfully denied the ability to build an ADU, and on behalf of the families and individuals that
21 should one day be able to live in these new homes.

22 7. Respondent City of Rancho Palos Verdes is a municipality of the State of California.
23 Respondent City of Rancho Palos Verdes Community Development Department is an agency integral to
24 the City of Rancho Palos Verdes. This petition refers to Respondents collectively as "the City."

25 **JURISDICTION AND VENUE**

26 8. This Court has jurisdiction to issue writs of mandate pursuant to Code of Civil Procedure
27 § 1085.

28 9. Venue is proper in this Court under Code of Civil Procedure § 393(b) because the cause of

1 action arose, and the injury to Petitioners occurred, in this County, where the Tao Petitioners proposed to
2 erect their ADU. Venue is also proper under Code of Civil Procedure § 394(a) because this is a
3 proceeding against a city located in this County.

4 10. As discussed in greater detail below, Petitioners have a clear, present, and beneficial right
5 to the City’s ministerial approval of the Tao Petitioners’ ADU permit application, Petitioners have no
6 plain, speedy, and adequate remedy at law, and Petitioners have exhausted all available administrative
7 remedies.

8 **FACTUAL ALLEGATIONS**

9 **A. Legislative Background**

10 11. California is facing a severe housing shortage that has increased over the last four decades
11 to reach a crisis level today. The lack of new homes, combined with continued job growth, has led to a
12 housing market so unaffordable that low- and middle-income families are being priced out of their
13 homes, forced to leave their city or the state entirely, or even forced to live on the streets. In order to
14 reverse this shortage, California needs to start building new homes at rates many times higher than it has
15 for the last two decades. (A Toolkit to Closing California’s Housing Gap: 3.5 Million Homes by 2025
16 (Oct. 2016) McKinsey Global Institute
17 <[https://www.mckinsey.com/~media/McKinsey/Industries/Public%20and%20Social%20Sector/Our%20
18 Insights/Closing%20Californias%20housing%20gap/Closing-Californias-housing-gap-Full-report.pdf](https://www.mckinsey.com/~media/McKinsey/Industries/Public%20and%20Social%20Sector/Our%20Insights/Closing%20Californias%20housing%20gap/Closing-Californias-housing-gap-Full-report.pdf)>
19 (as of June 21, 2022).)

20 12. Realizing the dire nature of the state’s housing market, the legislature has been focused on
21 reforming local housing policies by enacting many landmark bills to try to encourage or compel local
22 governments to approve more housing. A few of the many housing bills enacted by the legislature in the
23 last five years include: Senate Bill No. 167 (2017-2018 Reg. Sess.), strengthening the Housing
24 Accountability Act; The Housing Crises Act of 2019 (Sen. Bill No. 330 (2019-2020 Reg. Sess.), Sen.
25 Bill No. 8 (2021-2022 Reg. Sess.)); the California HOMES Act (Sen. Bill No. 9 (2021-2022 Reg. Sess.));
26 and major changes to statewide ADU standards (Sen. Bill No. 13 (2019-2020 Reg. Sess.), Assem. Bill
27 No. 13 (2019-2020 Reg. Sess.)). All the changes enacted have curtailed the ability of local governments
28 to deny new housing developments, large or small.

1 13. California’s statewide ADU law was first enacted by the legislature in 1982 and has been
2 strengthened by further legislation seven times. (Gov. Code § 65852.2; *A Guide to Ending Single-Family*
3 *Zoning: Lessons Learned from 39 Years of ADU Legislation* (May 2021) Cal. Renters Legal Advocacy
4 and Education Fund <[https://carlaef.org/wp-content/uploads/2021/05/A-Guide-to-Ending-Single-](https://carlaef.org/wp-content/uploads/2021/05/A-Guide-to-Ending-Single-Family-Zoning-CaRLA-May-2021.pdf)
5 [Family-Zoning-CaRLA-May-2021.pdf](https://carlaef.org/wp-content/uploads/2021/05/A-Guide-to-Ending-Single-Family-Zoning-CaRLA-May-2021.pdf)> (as of June 21, 2022).) The law established a framework
6 whereby local governments are allowed to enact a limited set of development standards governing ADU
7 permits, as long as those local standards conform to the limits outlined in state law. (Gov. Code §
8 65852.2, subd. (a).) These statewide standards include maximum limits on requirements for height,
9 setback, lot coverage, minimum lot size, and many other common local regulations. The ADU law also
10 requires a short, ministerial consideration of the permit application to ensure that homeowners are able to
11 navigate the permitting process.

12 14. In 2016, the legislature made an important departure from this framework. Senate Bill
13 No. 1069 (2015-2016 Reg. Sess.) created a new subdivision (e), requiring that certain types of ADU
14 permits must be ministerially approved notwithstanding any local development standards, regardless of
15 whether these development standards could be applied to other types of ADU permits. Initially this
16 vastly simplified permitting process was made available for ADUs that were created by converting
17 existing structures or parts of the primary dwelling. The rationale behind establishing this category of
18 “Exemption ADUs” was that local governments should have no need to apply development standard to
19 buildings that were already legally existing on a lot, simply because they were being converted into a
20 new home.

21 15. In 2019, the legislature renewed its push to unlock widespread ADU development in
22 California, enacting three new bills that drastically limited local discretion over ADU permitting. The
23 most significant of these, Assembly Bill No. 68 (2019-2020 Reg. Sess.), expanded the Exemption ADU
24 provisions to cover several new categories of ADUs. Among other things, following the passage of AB
25 68, homeowners could—without being subject to local development standards—construct one detached
26 ADU on every single-family property that maintains 4-foot setbacks from neighboring lots, is under 16
27 feet in height, and is under 800 square feet in floor area.

28 16. The 2019 legislation also gave increased authority to the state Department of Housing and

1 Community Development (HCD) to review local development standards (Government Code section
2 65852.2, subdivision (h)), and publish guidance and interpretations of state ADU laws. (Gov. Code §
3 65852.2, subd. (i).) Shortly after the new laws went into effect, HCD published the Accessory Dwelling
4 Unit Handbook to aid cities trying to implement the changes. In this guidance document, HCD clarifies
5 that:

6 subdivision [e] creates four categories of ADUs that should not be subject
7 to other specified areas of ADU law, most notably zoning and development
8 standards. For example, ADUs under this subdivision should not have to
9 comply with lot coverage, setbacks, heights, and unit sizes.

9 (Accessory Dwelling Unit Handbook (Updated Dec. 2020) Cal. Dept. of Housing and Community
10 Development, at 15 <https://www.hcd.ca.gov/policy-research/docs/adu_december_2020_handbook.pdf>
11 [as of June 21, 2022], hereinafter “ADU Handbook.”) In the section on design standards, HCD notes that
12 while objective design standards are generally permitted for ADUs, “*ADUs created under subdivision*
13 *(e) of Government Code 65852.2 shall not be subject to design and development standards except for*
14 *those that are noted in the subdivision.*” (*Id.* at 9 (emphasis added).)

15 **B. Nelson and Carolyn Tao’s ADU Proposal**

16 17. The Tao Petitioners formally submitted their permit application for a detached accessory
17 dwelling unit on October 3, 2021. The application was filed on the Tao Petitioners’ behalf by Abodu
18 Inc., the manufacturer of the prefabricated ADU that the Tao Petitioners proposed to construct on their
19 property at 7026 Larkvale Drive, where the Tao Petitioners lived in their single-family home.

20 18. As required, the permit application contained detailed architectural plans for the proposed
21 construction on the Tao Petitioners’ approximately 10,000 square foot lot. The plans clearly set forth
22 that the proposal was for a single ADU with a total floor area of 495 square feet and a maximum height
23 of 13 feet 5 inches, to be constructed 22 feet 5 inches from the Tao Petitioners’ existing single-family
24 home. The plans also clearly set forth that the proposed ADU would be set forth 10 feet from the Tao
25 Petitioners’ rear property line and 8 feet 5 inches from their side property line, and that there was no
26 other ADU already on the property. The plans further reflect that the proposed ADU would comply with
27 all applicable building codes. Accordingly, the Tao Petitioners’ application was entitled to ministerial
28

1 approval without application of local architectural and design standards as an Exemption ADU under
2 Government Code section 65852.2, subdivision (e). A true and correct copy of the permit application
3 submitted to the City is attached hereto as Exhibit A.

4 19. The Tao Petitioners' permit application was designed to take advantage of the 2019
5 revisions to Government Code section 65852.2(e) and the added flexibility that the revised statute affords
6 California residents in constructing ADUs on their property. In particular, the Tao Petitioners did not
7 hire an architect to design, or a contractor to build, a custom ADU that would be tailored to meet the
8 architectural and design standards set forth in Rancho Palos Verdes Municipal Code section 17.10.020,
9 which otherwise governs ADU construction in the city. Instead, since state law dictates that local
10 architectural design requirements may not be applied to Exemption ADUs meeting the requirements of
11 section 65852.2, subdivision (e), the Tao Petitioners opted to erect a prefabricated structure selected from
12 Abodu's available options. Abodu's offerings are not designed to meet Rancho Palos Verdes' particular
13 architectural design standards. They are, however, substantially cheaper for a homeowner to install than
14 a custom job. Abodu estimated that a comparable non-prefabricated unit would cost at least 15-20%
15 more to build and erect than a factory-made Abodu unit.

16 20. The Tao Petitioners' permit application was deemed "complete" by the City on October
17 17, 2021. On October 18, 2021, the Tao Petitioners paid intake fees totaling \$841, required by the City
18 for their permit application to be processed.

19 **C. Rancho Palos Verdes' Unlawful Denial**

20 21. On November 1, 2021, the City issued an "incomplete letter," purporting to enumerate
21 "missing information" that needed to be supplied before the permit application could be processed. A
22 true and correct copy of this letter is attached hereto as Exhibit B. Apart from technical corrections to the
23 labeling of the plan documents, the City asserted that the plans did not appear to comply with two aspects
24 of the "Rancho Palos Verdes Municipal Code architectural standard."

25 22. First, the City asserted that the proposed ADU did not have the required "privacy
26 mitigation measures" in the form of "windows at or above six feet on any facades that face any adjacent
27 properties" in accordance with Rancho Palos Verdes Municipal Code section 17.10.020, subdivision
28 (B)(6)(c)(ii). As the plans indicated, the proposed ADU was more than eight feet from the closest

1 adjacent property line (twice the required setback distance under Government Code section 65852.2,
2 subdivision (e)). Furthermore, HCD had already informed the City in May 2021 that this portion of the
3 City's ordinance was non-compliant with State housing law. The City responded in June stating that it
4 would explore a revision to cure this non-compliance by adding the words "where feasible" to the
5 privacy standard in Rancho Palos Verdes Municipal Code section 17.10.020, subdivision (B)(6)(c). True
6 and correct copies of HCD's letter and the City's response are attached hereto as Exhibits C and D.

7 23. Second, the City referenced Rancho Palos Verdes Municipal Code section 17.10.020,
8 subdivision (B)(6)(a), which purports to require as follows:

9 The accessory dwelling unit or junior accessory dwelling unit shall be
10 architecturally consistent with the primary residence, such that it matches
11 the primary residence in the use of complimentary color palettes, exterior
12 finishes, and matching roof pitch from all sides. The roof slope must match
that of the dominant roof slope of the primary dwelling. The dominant roof
slope is the slope shared by the largest portion of the roof.

13 The City suggested that this purported requirement was not met because "it appears that the main roof of
14 the primary residence has a slope of more than the 3/4:1 that is proposed for the ADU. Also, the façade of
15 the primary residence appear [sic] to be painted brick and stucco, while the exterior of the proposed ADU
16 is cedar shiplap. Also, the ADU proposes a metal seam roof, while the main residence has a shingle
17 roof."

18 24. The City demanded "corrections" of the issues identified, stating that submission of
19 further materials would trigger a new review period for the permit application.

20 25. The City did not identify any non-compliance with any building codes or standards in its
21 November 1, 2021 letter or at any other time. Nor did the City assert that the proposed ADU failed to
22 meet the requirements enumerated in Government Code section 65852.2, subdivision (e), to qualify for
23 ministerial approval as an Exemption ADU under that statutory provision. Notably, in its May 2021 non-
24 compliance letter, HCD had already informed the City that "Under Government Code sections 65852.2
25 and 65852.22, [Exemption ADUs] are exempt from local development standards like lot coverage,
26 setbacks, heights, and unit sizes. However, ADUs under this subdivision must meet the building code and
27 health and safety requirements." (See Ex. C at 2-3.)

28 26. Over the next several months, the Tao Petitioners, through Abodu, engaged in an

1 extensive back-and-forth with City authorities, including the City attorney. The back-and-forth included
2 a resubmitted proposal fixing the technical issues identified in the City's November 1 letter. A true and
3 correct copy of the Tao Petitioners' responsive letter and resubmitted planset is attached hereto as Exhibit
4 E.

5 27. The Tao Petitioners, through Abodu, repeatedly alerted the City to the fact that its
6 apparent intent to enforce the architectural standards in its local ordinance against an Exemption ADU
7 was in violation of state law. In addition to extensive correspondence, the subject was discussed at a
8 meeting with Associate Planner with the City Community Development Department Steven Giang, City
9 Planning Director Ken Rukavina, and City Attorney Elena Gerli on January 4, 2022. On January 10,
10 2022, Giang emailed to inform the Tao Petitioners that, under the City's interpretation of Government
11 Code section 65852.2, because the statute generally authorized municipalities to pass local ordinances
12 specifying architectural design standards, the City was entitled to enforce those standards against the Tao
13 Petitioners' proposed ADU notwithstanding its status as an Exemption ADU under Government Code
14 section 65852.2(e). A true and correct copy of that email is attached hereto as Exhibit F.

15 28. On January 11, 2022, the Tao Petitioners, through Abodu, reached out to HCD for
16 technical assistance concerning the application of state housing law to the Tao Petitioners' ADU permit
17 application. Referencing the HCD's previous guidance in its ADU Handbook, discussed at ¶ 16 *supra*,
18 the Tao Petitioners wrote:

19 As you may remember, [Abodu-designed] projects are pre-fabricated
20 detached ADUs that are <800 sq. ft and <16 ft in height, falling under
subdivision (e) of Gov Code 65852.2.

21 The City of Rancho Palos Verdes is under the interpretation that they may
22 apply design standards from their local ordinance. . . . Our team believes
23 that the HCD Handbook is clear on the bottom of page 9 that states: ADUs
24 created under subdivision (e) of Government Code 65852.2 shall not be
subject to design and development standards except for those that are noted
in the subdivision.

25 I understand that to mean the standards under subdivision (e) may be
26 applied, but no others outside of that.

27 Would you please clarify for us that design standards are not to be applied
28 to exemption ADUs that fall under subdivision (e)?

1 29. HCD responded on January 13, 2022, writing: “Since your ADUs are <800 sq. ft and <16
2 ft in height, they do fall under subdivision (e) of Government Code section 65852.2.(e), meaning local
3 development standards - including the architectural requirements detailed by the city [in Steven Giang’s
4 January 10 email] - do not apply.” A true and correct copy of the Tao Petitioners’ correspondence with
5 HCD is attached hereto as Exhibit G.

6 30. Later the same day, the Tao Petitioners, through Abodu, forwarded HCD’s guidance to the
7 City. Having received no response, the Tao Petitioners followed up on January 19, 2022, writing: “Now
8 that we have this guidance from the State I’m hoping we can continue moving this project forward.” On
9 January 20, 2022, Steven Giang responded that “The City’s position with regards to the Accessory
10 Dwelling Unit proposal at 7026 Larkvale Drive is unchanged. Please let me know if you are firm in not
11 modifying the design of the ADU to match the architectural style of the home as required by the City’s
12 ADU ordinance. If this is the case, I’ll deem the application complete and the Director will issue a
13 formal denial of the project, which is appealable to the Planning Commission.” A review of the materials
14 submitted with the Tao Petitioners’ application at Exhibit A (which included an explanation of Abodu’s
15 “HCD stamped, Factory-built housing”) would or should have made Mr. Giang aware that the design of
16 the factory-made ADU could not be modified without initiating a brand new and more expensive
17 process. His January 20 email did not state what basis the City had, if any, for concluding that it was
18 entitled to enforce its architectural design standards against an Exemption ADU under Government Code
19 section 65852.2, subdivision (e). (*See Ex. F at 8-9.*)

20 31. The Tao Petitioners, through Abodu, then asked for another meeting with Giang, the City
21 Planning Director, and the City Attorney. That meeting was held on February 2, 2022, over Zoom. At
22 that meeting, the City reaffirmed its incorrect interpretation of Government Code section 65852.2 as
23 permitting the architectural design standards in the city ordinance to be imposed upon Exemption ADUs
24 under subdivision (e), and stated that the City would deny the project absent modifications that it would
25 be impossible to make without scrapping the Tao Petitioners’ plans entirely and embarking on a
26 significantly more expensive custom design.

27 32. Later that afternoon, the Tao Petitioners, through Abodu, informed the City that they
28 intended to file a formal complaint with HCD. They filed the complaint on February 7, 2022. The

1 complaint noted the City’s stated intent to enforce the privacy standards in Rancho Palos Verdes
2 Municipal Code section 17.10.020, subdivision (B)(6)(c) that the City had already been advised in May
3 2021 did not comply with state law. The complaint also noted the City’s stated intent more generally to
4 apply architectural design standards to Exemption ADUs, contrary to the plain meaning of Government
5 Code section 65852.2 and HCD’s interpretation of that statute. A true and correct copy of the formal
6 complaint is attached hereto as Exhibit H.

7 33. The City formally denied the permit application on March 25, 2022. The City’s denial
8 letter stated that the City was denying the permit for “failing to meet the . . . objective architectural
9 requirements” recited in Rancho Palos Verdes Municipal Code section 17.10.020, subdivisions (B)(6)(a)
10 and (B)(6)(c)(ii):

11 1. The proposed slope of the ADU roof does not match the primary
12 residence’s slope.

13 2. The materials and colors used for the ADU do not match the primary
14 residence.

15 3. The proposed East facing window does not meet the minimum 6 feet
16 height limit.

17 A true and correct copy of the City’s March 25, 2022, denial letter is attached hereto as Exhibit I.

18 34. On April 4, 2022, the City Attorney confirmed to CaRLA that there was no administrative
19 appeal available from the denial. A true and correct copy of that correspondence is attached hereto as
20 Exhibit J.

21 **CAUSES OF ACTIONS**

22 **FIRST CAUSE OF ACTION**

23 **(Writ of Mandate)**

24 **(CCP § 1085 and Gov. Code 65852.2)**

25 35. Petitioners reallege and incorporate by reference all preceding allegations in this Petition
26 as if fully set forth herein.

27 36. Government Code section 65852.2, subdivisions (a) through (d), permits municipalities to
28 pass ordinances regulating the creation of ADUs, including imposing standards that include “parking,
height, setback, landscape, architectural review, maximum size of a unit, and standards that prevent
adverse impacts on any real property that is listed in the California Register of Historical Resources.”

1 However these sections also place limits on the types of ordinances that are permissible. For example,
2 the ordinance shall include “only ministerial provisions for the approval of accessory dwelling units and
3 shall not include any discretionary processes, provisions, or requirements for those units.” And the
4 approval process for ADUs must be ministerial, “without discretionary review or a hearing.”

5 37. Government Code section 65852.2, subdivision (e) states that “**notwithstanding**
6 **subdivisions (a) to (d)**, inclusive, a local agency **shall ministerially approve** an application for a building
7 permit within a residential or mixed-use zone to create . . . [o]ne detached, new construction, accessory
8 dwelling unit that does not exceed four-foot side and rear yard setbacks for a lot with a proposed or
9 existing single-family dwelling” except that a municipality may require that the proposed ADU have “a
10 total floor area limitation of not more than 800 square feet” and “a height limitation of 16 feet” (emphasis
11 added).

12 38. Government Code section 65852.2, subdivision (i) further states that HCD “may review,
13 adopt, amend, or repeal guidelines to implement uniform standards or criteria that supplement or clarify
14 the terms, references, and standards set forth in this action.”

15 39. HCD provides homeowners and developers technical assistance in the form of an “ADU
16 Handbook” containing its guidelines for applying state ADU law, including Government Code section
17 65852.2. The version of the ADU Handbook updated December 2020 interprets subdivision (e) in
18 relation to the rest of section 65852.2. HCD’s guidelines interpret section 65852.2, subdivision (e)
19 consistent with the statutory language requiring ministerial approval of ADU permit applications meeting
20 its requirements **notwithstanding** any ordinance or standard promulgated pursuant to subdivisions (a) or
21 (b). In particular, HCD’s guidelines state that while “a local government may apply development and
22 design standards that include, but are not limited to, parking, height, setback, landscape, architectural
23 review, maximum size of a unit, and standards that prevent adverse impacts on any real property that is
24 listed in the California Register of Historic Resources” so long as “these standards shall be sufficiently
25 objective to allow ministerial review of an ADU,” “ADUs created under subdivision (e) of Government
26 Code 65852.2 **shall not be subject to design and development standards except for those that are noted**
27 **in the subdivision**” (emphasis added).

28 40. The Tao Petitioners’ proposed ADU meets the requirements of section 65852.2,

1 subdivision (e)(1)(B). In particular, as evidenced by the plans submitted to the City and attached hereto
2 as Exhibit A and Exhibit E (as revised), the proposed ADU is:

- 3 a. Within a residential zone.
- 4 b. The only proposed ADU on the property in addition to the single-family home that
5 is the Tao Petitioners' primary residence.
- 6 c. A detached ADU with a proposed floor area of less than 800 square feet and a
7 maximum height of less than 15 feet.
- 8 d. Compliant with the four-foot side and rear yard setback guideline.

9 41. In accordance with the plain language of Government Code section 65852.2 as well as
10 HCD's guidelines, state law prohibited the City from applying the design review standards contained in
11 the City's ADU ordinance to the Tao Petitioners' permit application, including the standards recited in
12 section 17.10.020, subdivisions (B)(6)(a) and (B)(6)(c)(ii) of that ordinance, and from denying the Tao
13 Petitioners' permit application on grounds of non-compliance with those standards. The City's March
14 25, 2022, denial of the Tao Petitioners' permit application was unlawful and specifically prohibited by
15 Government Code section 65852.2, subdivision (e). Because the proposed ADU was up to code and met
16 the requirements of Government Code, section 65852.2, subdivision (e), the City was legally required to
17 ministerially approve the Tao Petitioners' application.

18 42. Additionally, the architectural review standards in Rancho Palos Verdes Municipal Code
19 section 17.10.020, subdivision (B)(6)(a) do not comply with Government Code section 65852.2,
20 subdivision (a)'s requirement that a municipality's ADU ordinance may not include any "discretionary"
21 provisions. *See* ADU Handbook at 9 ("A local government may apply development and design standards
22 that include, but are not limited to, parking, height, setback, landscape, architectural review, maximum
23 size of a unit, and standards that prevent adverse impacts on any real property that is listed in the
24 California Register of Historic Resources. However, these standards shall be sufficiently objective to
25 allow ministerial review of an ADU."). In particular, the requirement that the ADU be "architecturally
26 consistent with the primary residence, such that it matches the primary residence in the use of
27 complimentary color palettes, exterior finishes, and matching roof pitch from all sides" is necessarily
28 subjective and seeks to enable the City to issue unlawful discretionary denials of permit applications for

1 proposed ADUs it deems not “architecturally consistent” with the primary residence, for example
2 because its colors and finishes are not “complimentary.” The City’s March 25, 2022, denial of the Tao
3 Petitioners’ permit application was therefore unlawful for this separate and additional reason, being
4 specifically prohibited by Government Code section 65852.2, subdivision (a).

5 43. The Tao Petitioners are entitled to have, and possess a clear, present, and beneficial
6 interest in having, the City ministerially approve their application for a permit to build a Government
7 Code section 65852.2, subdivision (e)-compliant Exemption ADU in accordance with state law. The
8 City had a clear, present, and ministerial duty to approve the Tao Petitioners’ permit application, and the
9 City’s denial of the application unlawfully denies the Tao Petitioners their legal right to have their
10 petition ministerially approved. Petitioner CaRLA likewise has a clear, present, and beneficial interest in
11 compelling the City to perform its duties under state law as described herein. The City has failed and
12 refused to perform its duties, thereby causing Petitioners irreparable harm.

13 44. Petitioners exhausted the administrative remedies available to them to the extent they
14 were required to do so. Petitioners have no plain, speedy, or adequate remedy to challenge the City’s
15 acts as described herein other than through this Petition, and therefore writ relief is necessary in order to
16 compel the City to perform its duties under state law. Petitioners seek an order or judgment compelling
17 compliance with Government Code section 65852.2, including but not limited to an order or judgment
18 compelling the City to forthwith approve their ADU permit application and/or enjoining the city from
19 applying the architectural and design standards set forth in the City’s ADU ordinance to Exemption
20 ADUs.

21 45. Because the city’s decision to deny the Application was illegal, and the City’s
22 noncompliance with state ADU law contravenes the policy goals of the Legislature and adversely affects
23 the public interest in significant ways, Petitioners are entitled to attorneys’ fees under Code of Civil
24 Procedure section 1021.5.

25 **SECOND CAUSE OF ACTION**
26 **(Declaratory Relief)**
27 **(CCP § 1060)**

28 46. Petitioners reallege and incorporate by reference all preceding allegations in this Petition
as if fully set forth herein.

1 47. The City’s application of architectural and design standards in its ADU ordinance to
2 permit applications to build Exemption ADUs is unlawful under Government Code section 65852.2,
3 subdivision (e), which requires ministerial approval of all applications for a building permit within
4 residential zones which are for “one detached, new construction accessory dwelling unit that does not
5 exceed four-foot side and rear yard setbacks for a lot with a proposed or existing single-family dwelling”
6 that has a total floor area of not more than 800 square feet and a maximum height of not more than 16
7 feet.

8 48. An actual controversy has arisen and now exists between Petitioners and the City
9 concerning Petitioners’ rights and the City’s duties and obligations under state ADU law. The City has
10 unlawfully denied the Tao Petitioners’ permit application, which is preventing the Tao Petitioners from
11 building on their property an ADU which they are legally entitled to build under state law. The City’s
12 unlawful denial also affects other homeowners, including those who are likely to seek CaRLA’s
13 assistance in the future, who will be deterred from filing permit applications to build ADUs that they
14 have a legal right to build under state law.

15 49. Petitioners have no recourse other than this lawsuit and no plain, speedy, or adequate
16 remedy in the ordinary course of law. Moreover, Petitioners seek enforcement of an important right
17 affecting the public interest and that will confer a significant public benefit. Establishing that the City
18 must ministerially approve Exemption ADUs without imposing architectural and design standards—
19 including but not limited to independently unlawful subjective standards—will further the Legislature’s
20 public policy goal to increase the approval and construction of new housing.

21 50. Under Code of Civil Procedure section 1060, a judicial determination and declaration as
22 to the City’s obligation to comply with state ADU law and ministerially approve the Tao Petitioners’
23 application for a permit to build an Exemption ADU is necessary and appropriate in order to determine
24 Petitioners’ rights and the City’s obligations.

THIRD CAUSE OF ACTION
(Injunctive Relief)
(CCP § 525 and 526)

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27 51. Petitioners reallege and incorporate by reference all preceding allegations in this Petition
28 as if fully set forth herein.

1 52. The City’s refusal to comply with state ADU law has caused and threatens to cause
2 Petitioners irreparable and substantial harm. No amount of monetary damages and no other legal remedy
3 can adequately compensate Petitioners for the irreparable harm that they have suffered and will continue
4 to suffer from the violations of law described herein. Petitioners have no plain, speedy, and adequate
5 remedy at law, in that unless the City is enjoined by this Court from denying the Tao Petitioners the
6 ministerial approval of their section 65852.2, subdivision (e)-compliant ADU permit application to which
7 they are entitled, and further enjoined from taking any further unlawful action to preclude the
8 construction of the Tao Petitioners’ proposed ADU, Petitioners will continue to be denied their statutory
9 rights.

10 **PRAYER**

11 WHEREFORE, Petitioners pray for relief as follows:

12 53. For peremptory and alternative writs of mandate compelling Respondents to comply with
13 Government Code section 65852.2, including an order that Respondents ministerially approve the Tao
14 Petitioners’ proposed ADU without subjecting it to architectural and design review prohibited by
15 Government Code section 65852.2.

16 54. For a declaratory judgment that Government Code section 65852.2 requires Respondents
17 to ministerially approve the Tao Petitioners’ proposed ADU without subjecting it to the architectural,
18 design, and other development standards contained in Rancho Palos Verdes Municipal Code section
19 17.10.020.

20 55. For injunctive relief restraining Respondents, their agents, and their employees from
21 taking any action to preclude the ministerial approval of the Tao Petitioners’ proposed ADU to which
22 they are entitled, and from taking any further unlawful actions to preclude its construction.

23 56. For costs of suit as allowed by law, including attorney’s fees pursuant to Code of Civil
24 Procedure section 1021.5.

25 57. For such other and further relief as may be just and proper.
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Dated: June 22, 2022

DURIE TANGRI LLP

By: 
EUGENE NOVIKOV

Attorney for Plaintiffs
NELSON TAO AND CAROLYN TAO

Dated: June 22, 2022

By: 
DYLAN CASEY

Attorney for Plaintiffs
NELSON TAO, CAROLYN TAO, AND CALIFORNIA
RENTERS LEGAL ADVOCACY AND EDUCATION
FUND

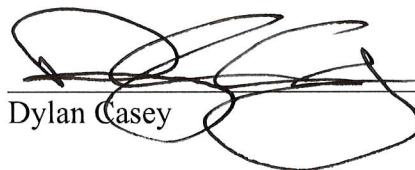
VERIFICATION

I, Dylan Casey, declare:

I am a resident of the State of California. I am the Executive Director of the California Renters Legal Advocacy and Education Fund ("CaRLA"), in addition to being counsel for CaRLA.

I have read the foregoing Verified Complaint and Petition for Writ of Mandate and know its contents. The matters stated therein are true of my own knowledge, including from having reviewed records regarding the administrative actions alleged.

I declare under penalty of perjury, under the laws of the State of California, that the foregoing is true and correct and that this verification was signed on the 21th day of June 2022 in Alameda, California.


Dylan Casey

VERIFICATION

I, Nelson Tao, declare:

I am a Petitioner in this matter. I have read the foregoing Verified Complaint and Petition for Writ of Mandate and know its contents. The matters stated therein concerning my ADU permit application are true of my own knowledge. I am informed and believe that the matters stated therein concerning California housing law are true, and on that ground allege them to be true.

I declare under penalty of perjury, under the laws of the State of California, that the foregoing is true and correct and that this verification was signed on the 21st day of June 2022 in Rancho Palos Verdes, California.



Nelson Tao

1 **PROOF OF SERVICE**

2 I am employed in San Francisco County, State of California, in the office of a member of the bar
3 of this Court, at whose direction the service was made. I am over the age of eighteen years, and not a
4 party to the within action. My business address is 217 Leidesdorff Street, San Francisco, CA 94111.

5 On June 22, 2022, I served the following documents in the manner described below:

- 6 • **VERIFIED PETITION FOR WRIT OF MANDATE AND COMPLAINT FOR**
7 **INJUNCTIVE AND DECLARATORY RELIEF**

8 (BY MESSENGER SERVICE) By consigning the document(s) to an authorized courier
9 and/or process server for hand delivery on this date.

10 On the following part(ies) in this action:

11 City Clerk for the City of Rancho Palos Verdes
12 30940 Hawthorne Boulevard
13 Rancho Palos Verdes, CA 90275

14 City of Rancho Palos Verdes Community
15 Development Department
16 30940 Hawthorne Boulevard
17 Rancho Palos Verdes, CA 90275

18 I declare under penalty of perjury under the laws of the State of California that the foregoing is
19 true and correct. Executed on June 22, 2022, at San Francisco, California.

20 

21 _____
22 CELESTE ALAS
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