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Los Angeles Superior Court

**JUL 26 2018**

Sherri R. Carter, Executive Officer/clerk  
By Shaunya Bolden, Deputy

14 Attorneys for Petitioner/Plaintiff  
15 ALLIANCE OF CALIFORNIANS FOR  
COMMUNITY EMPOWERMENT  
16 (ACCE ACTION)

17 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
18 COUNTY OF LOS ANGELES, CENTRAL DISTRICT

19 ALLIANCE OF CALIFORNIANS FOR  
COMMUNITY EMPOWERMENT  
20 (ACCE ACTION),

21 Petitioner and Plaintiff,

22 v.

23 CITY OF LOS ANGELES, LOS  
ANGELES CITY COUNCIL, and LOS  
24 ANGELES HOUSING + COMMUNITY  
INVESTMENT DEPARTMENT,

25 Respondents and Defendants.  
26

Case No. NEW **BS 174427**

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

**By Fax**

[3272495.27]

1 Petitioner and Plaintiff ALLIANCE OF CALIFORNIANS FOR COMMUNITY  
2 EMPOWERMENT (“ACCE ACTION”), a 501(c)(4) organization, by and through their  
3 attorneys Public Counsel, Rosen Bien Galvan & Grunfeld, and Public Interest Law Project,  
4 hereby petition, complain, and allege<sup>1</sup> as follows, against Respondents and Defendants  
5 CITY OF LOS ANGELES, LOS ANGELES CITY COUNCIL, and LOS ANGELES  
6 HOUSING + COMMUNITY INVESTMENT DEPARTMENT (“HCIDLA”) (collectively  
7 “Respondents” or “Defendants”), and each of them, as follows:

8 **INTRODUCTION**

9 1. This case is about homelessness, discrimination, segregation, and an illegal  
10 city procedure that has acted as a bar to the remedy of this problem despite the voters’  
11 clear intent to the contrary. Every day in the City of Los Angeles (the “City”), thousands  
12 of men, women, and children, including veterans, individuals with mental and physical  
13 disabilities, and survivors of domestic violence, have no meaningful choice but to live in  
14 sidewalk encampments and sleep in tents or sleeping bags. The most recent homeless  
15 count of the City, released on May 31, 2018, estimated that 31,516 individuals are  
16 homeless in the City on any given night, including 3,002 children under the age of  
17 eighteen and 3,042 seniors. Of these individuals, 9,322 experienced homelessness for the  
18 first time this past year, an increase of 16 percent over the prior year. These conditions  
19 result from a massive and chronic shortage of affordable housing for persons and families  
20 with the lowest incomes, which are disproportionately people of color and people with  
21 disabilities.

22 2. The City is exacerbating this problem by maintaining an illegal, unnecessary,  
23 arbitrary, and discriminatory barrier to the construction of affordable and supportive  
24 housing, allowing individual councilmembers to secretly stop, delay, or condition  
25 proposed housing projects through a number of mechanisms, the most glaring example of  
26

27 \_\_\_\_\_  
28 <sup>1</sup> Unless explicitly stated to the contrary, all allegations are based upon information and belief.

1 which is the deceptively labeled “Letter of Acknowledgement” (“LOA”). These  
2 mechanisms allow an individual councilmember to veto affordable and supportive housing  
3 projects for any or no reason at all. In the first instance, without obtaining an LOA,  
4 developers cannot even apply for supportive and affordable housing funding in the City.  
5 Even if they are successful in obtaining the required LOA from the individual  
6 councilmember in whose district the project is to be sited, in some cases, there is also a  
7 need for a separate Letter of Support from the same councilmember. These requirements  
8 together, or singularly, effectively give individual councilmembers unchecked veto power  
9 over nearly all affordable and supportive housing projects in their districts. These  
10 obstructive requirements violate multiple provisions of state law, including the section  
11 65008 of the California Government Code, the California Fair Employment and Housing  
12 Act, the California Housing Element Law and the City’s Housing Element implementing  
13 the same, the Los Angeles City Charter, and the Equal Protection Guarantee of the  
14 California Constitution.

15         3.         Giving individual councilmembers unrestricted veto power over affordable  
16 and supportive housing is illegal and it violates the will of the people. With the increased  
17 visibility of people experiencing homelessness on the streets of Los Angeles, and the  
18 severe shortage of affordable housing, voters were compelled to act. On November 8,  
19 2016, voters approved by a 3 to 1 margin Proposition HHH, authorizing \$1.2 billion in  
20 general obligation bonds to construct supportive housing and affordable housing citywide  
21 over the next decade. Months later, Los Angeles County voters approved Measure H, to  
22 increase the county’s sales tax to fund services to address homelessness.

23         4.         In spite of the people’s mandate to construct more supportive and affordable  
24 housing, the City adopted and maintains the illegal LOA requirement. Since at least 2013  
25 the City has included the LOA and Letter of Support requirements as part of its regulations  
26 of the Affordable Housing Managed Pipeline program to help finance the construction of  
27 affordable housing. It perpetuated and expanded the LOA requirement as part of its  
28 regulations in 2017 and 2018 implementing Proposition HHH to fund the construction of

1 permanent supportive housing. Now, nearly all affordable and supportive housing built in  
2 the City must apply for funding under the Proposition HHH program or the Affordable  
3 Housing Managed Pipeline program and therefore are subject to these illegal requirements.

4         5. Pursuant to the LOA policy, applicants seeking funding from either program  
5 must first obtain a Letter of Acknowledgement from the local councilmember in whose  
6 Council District they wish to build. In contrast to all other types of housing developments,  
7 the LOA imposes a threshold requirement for proposed subsidized housing projects that  
8 must be met before an applicant can even apply to or be considered under either program.  
9 Consequently, when an individual councilmember refuses to issue a letter, an affordable  
10 and supportive housing project will not be considered for funding.

11         6. In practice, this “pocket veto” enables and encourages an individual  
12 councilmember in whose district the housing is proposed to stop, delay, and alter any  
13 project whenever they choose, including when they wish to placate those interest groups  
14 who want to keep the formerly homeless out of their neighborhoods. The LOA operates  
15 out of public view, insulating councilmembers from accountability for succumbing to  
16 hostile and discriminatory attitudes of a minority of residents. It is an impermissible  
17 delegation of legislative authority by the City Council, and it undermines Proposition HHH  
18 and the Affordable Housing Managed Pipeline. It is truly a pocket veto in that the failure  
19 to issue an LOA creates no affirmative public record of denial, and the mere existence of  
20 the requirement deters many interested developers from even attempting to pursue  
21 supportive housing or affordable housing projects, especially in certain Council Districts  
22 where public hostility to such projects is well known.

23         7. In addition to the chilling effect of the LOA on development in certain  
24 Council Districts, individual councilmembers have refused to issue LOAs for projects that  
25 would have been otherwise eligible for funding through the Proposition HHH and  
26 Affordable Housing Managed Pipeline programs, leading to far fewer affordable housing  
27 projects, and in some cases zero Proposition HHH projects, in particular Council Districts.

28         8. Beyond providing a powerful tool to block housing for homeless residents,

1 the LOA acts to maintain racial and economic residential segregation throughout Los  
2 Angeles by permitting individual councilmembers to limit mobility of low income  
3 individuals into the neighborhoods they represent. *See* Philip D. Tegeler, *Housing*  
4 *Segregation and Local Discretion*, 3 J. L. & Pol'y 209, 217 (1994) (“[Requiring local  
5 government approval] has furthered segregation by limiting public resources to cities and  
6 towns with large existing low-income populations, and by permitting other localities to  
7 avoid public housing altogether.”).

8       9.       Nothing about the LOA serves any legitimate governmental purpose. For  
9 years, various stakeholders and authorities have publicly decried local approval  
10 requirements, such as the LOA, in the siting of affordable housing. Government agencies  
11 such as the U.S. Government Accountability Office and the U.S. Department of Housing  
12 and Urban Development have said that local approval requirements are an impediment to  
13 the realization of fair housing. *See* U.S. Government Accountability Office, *Low-Income*  
14 *Housing Tax Credit – Some Agency Practices Raise Concerns and IRS Could Improve*  
15 *Noncompliance Reporting and Data Collection*, GAO-16-360, at 14. Researchers from the  
16 *Poverty & Race Research Action Council* have also found a “broad ‘chilling effect’ due to  
17 local approval requirements” so strong it wholly discourages developers from even  
18 considering sites in certain areas with reputations for community opposition to affordable  
19 housing. *See* *Poverty & Race Research Action Council, Building Opportunity: Civil*  
20 *Rights Best Practices in the Low Income Housing Tax Credit Program*, at 10-11 n. 12  
21 (Dec. 2008). Because of these well-documented concerns, the National Council of State  
22 Housing Agencies, a national association of state affordable housing agencies,  
23 recommends that agencies not require local approval as a threshold for the siting of  
24 affordable housing because such thresholds “effectively give localities the ability to veto  
25 the development of [affordable housing] and allow ‘Not in My Backyard’ efforts to  
26 prevent affordable housing development.” *See* National Council of State Housing  
27 Agencies, *Recommended Practices in Housing Credit Administration*, at 8 (Dec. 2017).  
28 Indeed the City’s own Assessment of Fair Housing and the Proposition HHH regulations

1 themselves acknowledge that community opposition and site selection policies and  
2 discretionary approvals are barriers to fair housing in the City.

3 10. California law prohibits the LOA requirement. The LOA requirement  
4 violates Cal. Gov. Code § 65008(b) because the adverse effects of permitting individual  
5 councilmembers to veto supportive housing and housing for lower income households  
6 disproportionately impacts housing opportunities primarily for low-income people of color  
7 and individuals with disabilities. The requirement results in delays and increases in the  
8 cost of affordable and supportive housing projects, preventing their construction in certain  
9 high opportunity parts of Los Angeles, regardless of the need for or feasibility of such  
10 projects, in areas where pockets of hostility exist. Its adverse effects fall  
11 disproportionately on persons of color and individuals with disabilities and perpetuate  
12 residential segregation based on race, class, and mental health. *See Keith v. Volpe*, 618 F.  
13 Supp. 1132, 1157–59 (C.D. Cal. 1985) (finding violation of § 65008 regardless of intent  
14 where denial of housing development had greater adverse effect on racial minorities and  
15 on low income persons than on middle and high income persons), *aff'd*, 858 F.2d 467 (9th  
16 Cir. 1988).

17 11. Concerns about the LOA specifically have been shared with the City on  
18 numerous occasions. Petitioner’s attorney Public Counsel sent letters to the City, dated  
19 October 27, 2014, April 19, 2018 and June 27, 2018, expressing its concerns that the LOA  
20 was illegal and discriminatory. *See e.g.*, June 27, 2018 Letter from Public Counsel to Los  
21 Angeles City Council, attached hereto as **Exhibit A**. In addition, a widely circulated 2014  
22 report by Enterprise Community Partners, Inc. on the financing of supportive housing in  
23 the Los Angeles, which interviewed many supportive housing developers and City  
24 agencies (including HCIDLA), found that the developers they spoke with “all reiterated  
25 the concern that [permanent supportive housing] project sponsors must face an even stiffer  
26 test of possible community opposition” earlier in the development cycle because of the  
27 letter requirement. “As council offices in turn seek neighborhood council  
28 engagement/sanction for the project, developers report experiences in which these

1 community bodies overreach their purview, stepping outside of zoning alignment to even  
2 question population targeting. Securing favor can significantly impact the project,  
3 particularly its design, at quite an expense or delay to the project. Since developers simply  
4 have no choice but to win local council approval for the project to advance, they are in a  
5 compromised position to negotiate additional demands.” See Enterprise Community  
6 Partners, Inc., *Financing Permanent Supportive Housing in Los Angeles: Challenges and*  
7 *Opportunities in a New Era* at 21 (2014).

8         12. In December 2017, developers and homeless service providers urged the  
9 City to drop the LOA requirement because it could be used to delay or block worthy  
10 projects. See Dec. 14, 2017 Letter from Provider Alliance to Mayor and Los Angeles City  
11 Council, attached hereto as **Exhibit B**. In March 2018, the Los Angeles Times Editorial  
12 Board called for the elimination of the LOA, stating that its use “amounts to an exercise of  
13 unlimited discretion.” The L.A. Times Editorial Board, *L.A. City Council members*  
14 *shouldn't have the power to veto homeless housing projects at a whim*, L.A. Times (Mar.  
15 17, 2018). Despite these calls, the City Council has refused to remove the LOA  
16 requirement. It thereby continues to maintain an arbitrary, unnecessary and publicly  
17 imperceptible barrier to supportive and affordable housing, effectively preserving the  
18 status quo of the homeless crisis and perpetuating residential segregation in the City of Los  
19 Angeles.

20         13. The LOA policy discriminates against the very type of housing for which it  
21 operates. It applies only to supportive and affordable housing projects that receive public  
22 funding through the Proposition HHH and Affordable Housing Managed Pipeline  
23 programs. There is no analogous requirement for any other type of development in the  
24 City. Nor is there any legitimate basis for the requirement related to the decision to  
25 approve funding for projects pursuant to either program. By adopting and maintaining the  
26 LOA policy, the City, therefore, has violated its mandatory duty to refrain from treating  
27 subsidized housing differently from unsubsidized housing under Cal. Gov. Code §  
28 65008(d)(1). It also has violated its duty under Cal. Gov. Code § 65008(b)(1) to refrain

1 from actions that discriminate against any residential development or emergency shelter  
2 because of, *inter alia*, the method of financing or the intended occupancy of lower income  
3 households.

4 14. Because this discriminatory treatment does not rely on any substantiated  
5 factors that indicate subsidized supportive and affordable housing projects would “pose  
6 any special threat to the city’s legitimate interests,” but rather on “negative attitudes [and]  
7 fear” and “irrational prejudice” against homeless individuals on account of their  
8 disabilities, race and class, symptomatic of “Not In My Back Yard” racial and economic  
9 prejudice (“NIMBYism”), the LOA policy also violates the Equal Protection Clause under  
10 Article I, Section 7(a) and Article IV, Section 16(a) of the California Constitution. *See*  
11 *City of Cleburne v. Cleburne Living Center, Inc.*, 473 U.S. 432, 451 (1985).

12 15. In making unavailable and otherwise denying housing opportunities for  
13 people of color and individuals with disabilities, the LOA policy also violates the  
14 California Fair Employment and Housing Act (“FEHA”). *See* Cal. Gov. Code § 12900 *et*  
15 *seq.* By and through their LOA policy, Respondents and Defendants intentionally  
16 discriminate against people of color and individuals with disabilities. The LOA policy also  
17 has a discriminatory effect on those protected classes.

18 16. The LOA policy also violates the California Housing Element Law. Cal.  
19 Gov’t Code §§ 65580–65589.8. Under the Housing Element Law, the housing element of  
20 each local jurisdiction’s general plan must make “adequate provision for the existing and  
21 projected housing needs of all economic segments of the community.” *Id.* § 65583; *see*  
22 *also id.* § 65582(f) (defining “housing element”). Among the requirements for meeting the  
23 housing needs, the law requires analysis of governmental constraints that hinder the  
24 locality from meeting . . . the need for housing for persons with disabilities, supportive  
25 housing, transitional housing, and emergency shelters . . . .” *Id.* § 65583(a)(5). The  
26 analysis must also demonstrate efforts to remove these local constraints. Based on the  
27 analysis, the housing element must include a program to remove these constraints where  
28 legally possible. *Id.* § 65583(c)(3).



1           17.     The LOA policy conflicts with the Housing Element Law protections for  
2 supportive housing by enabling individual councilmembers to block, delay, or insist on  
3 land use or development restrictions on supportive housing projects, including restrictions  
4 that would otherwise not be permitted, as a condition of receiving an LOA. Since nearly  
5 all supportive housing projects must apply for funding through the Proposition HHH and  
6 Affordable Housing Managed Pipeline programs, the LOA policy effectively and  
7 impermissibly circumvents the Housing Element Law provisions protecting supportive  
8 housing.

9           18.     The LOA policy is also inconsistent with the Housing Element of the City's  
10 General Plan in violation of state law. *See id.* § 65587(c). Goals, policies and objectives  
11 of the Housing Element provide that the City will foster the development of new  
12 affordable housing citywide and within each Community Plan area. The LOA policy,  
13 however, permits an individual councilmember to reject, without express basis, supportive  
14 housing or affordable housing developments in any Community Plan Area by refusing to  
15 issue an LOA. It therefore obstructs attainment rather than further the objectives and  
16 policies of the Housing Element.

17           19.     The LOA policy also violates section 244 of the Los Angeles City Charter,  
18 Article XI, Section 7 of the California Constitution, and governing non-delegation  
19 principles of administrative and municipal law because it impermissibly delegates  
20 legislative and executive power to individual councilmembers.

21           20.     Petitioner and Plaintiff therefore seeks a writ of mandate and any other  
22 appropriate injunctive and declaratory relief requiring the City to remove the LOA  
23 requirement, and Letter of Support requirement, and any other mechanism, policy, or  
24 practice that allows an individual councilmember to veto project funding, from the  
25 Proposition HHH and Affordable Housing Managed Pipeline programs.

### **JURISDICTION AND VENUE**

26  
27           21.     This Court has jurisdiction to hear the subject matter of this petition and  
28 complaint. This Court also has jurisdiction over each Respondent and Defendant, as the

1 acts and omissions alleged herein occurred in California. Venue is proper in this Court  
2 because all the violations of law alleged herein occurred and are occurring in Los Angeles  
3 County.

4 **PARTIES**

5 22. Petitioner and Plaintiff ACCE ACTION is a 501(c)(4) non-profit entity that  
6 is a grassroots, member-led, statewide community organization with more than 13,000  
7 members across California. ACCE ACTION is dedicated to raising the voices of everyday  
8 Californians to fight for policies and programs to improve communities, and is currently  
9 pursuing campaigns around housing justice, worker justice, and sustainable communities.  
10 ACCE ACTION's housing justice work centers on helping families stay in their homes,  
11 preserving affordable housing, and pushing for equitable housing practices across  
12 California, including in Los Angeles.

13 23. ACCE ACTION has members who are eligible for supportive housing or  
14 affordable housing and are currently seeking, applying for, or on waiting lists for  
15 supportive housing or affordable housing in the City of Los Angeles. ACCE ACTION  
16 also has members who have expressed a desire to reside in higher opportunity areas of the  
17 City, but are unable to find housing in those areas that they can afford. As a result of  
18 Respondents' unlawful LOA policy, ACCE ACTION's members have been injured and  
19 will be injured in the future because they are unable to find supportive housing or  
20 affordable housing.

21 24. ACCE ACTION's organizational mission has been frustrated by  
22 Respondents' unlawful LOA policy. Among other things, ACCE ACTION regularly  
23 operates tenants' rights clinics and directly assists tenants facing eviction and  
24 homelessness. The barrier to supportive and affordable housing development caused and  
25 exasperated by the LOA requirement directly decreases the number of housing alternatives  
26 available across the City to persons that ACCE ACTION serves through its tenants' rights  
27 clinics and otherwise, who are rendered homeless by evictions.

28 25. ACCE ACTION was a lead community stakeholder consulted by the City in

1 drafting its Assessment of Fair Housing. In addition, ACCE ACTION collaborated with  
2 its sister organization - ACCE Institute - to gather and submit written comments to the  
3 draft Assessment of Fair Housing on behalf of 42 community-based organizations. ACCE  
4 ACTION and its sister organization convened meetings with service providers, advocates,  
5 and residents to identify barriers to fair housing choice and to develop a list of goals and  
6 strategies to mitigate or eliminate those barriers.

7 26. ACCE ACTION has devoted significant time and resources to remedying the  
8 problem of homelessness to include the need for greater affordable and supportive housing  
9 throughout the City of Los Angeles. As alleged herein, the LOA is a significant barrier to  
10 these efforts, and, thus, ACCE ACTION and its members have been injured and will  
11 continue to be injured by the LOA requirement in the future.

12 27. Respondent and Defendant CITY OF LOS ANGELES is a charter city and  
13 municipal corporation organized under the laws of the State of California. The City is a  
14 legal entity with the capacity to sue and be sued.

15 28. Respondent and Defendant LOS ANGELES CITY COUNCIL is the  
16 legislative body of the City and is responsible for carrying out the Constitution and laws of  
17 the State of California, and conforming the ordinances, regulations, policies, and actions of  
18 the City to the requirements of state law.

19 29. Respondent and Defendant HCIDLA is the department of City government  
20 responsible for the development and preservation of affordable housing, neighborhood  
21 investment, and social services in the City, including the Proposition HHH program and  
22 the Affordable Housing Managed Pipeline program described herein.

### 23 **FACTUAL ALLEGATIONS**

24 30. Petitioner and Plaintiff incorporates by reference herein each and every  
25 allegation contained in the previous paragraphs.

### 26 **The Homelessness Crisis in Los Angeles**

27 31. Los Angeles is in the midst of a homelessness crisis unparalleled in any other  
28 community in the nation. In an editorial dated February 25, 2018, the Los Angeles Times

1 painted the following grim picture of Skid Row:

2       There are few sights in the world like nighttime in skid row, the teeming  
3       Dickensian dystopia in downtown Los Angeles where homeless and destitute  
4       people have been concentrated for more than a century. Here, men and  
5       women sleep in rows, lined up one after another for block after block in  
6       makeshift tents or on cardboard mats on the sidewalks . . . . Criminals prey  
7       on them, drugs such as heroin and crystal meth are easily available, sexual  
8       assault and physical violence are common and infectious diseases like  
9       tuberculosis, hepatitis and AIDS are constant threats. Skid row is — and  
10      long has been — a national disgrace, a grim reminder of man’s ability to turn  
11      his back on his fellow man.

12           32.     Inadequate housing for low-income residents has created a dire situation in  
13      the City. The number of residents living on the street or in emergency or temporary  
14      shelters has surged, and homeless encampments have become a fixture of the Los Angeles  
15      landscape. In 2018, the City estimated, 31,516 people experienced homelessness on any  
16      given night. *See* Los Angeles Homeless Services Authority, Greater Los Angeles  
17      Homeless Count 2018 Results (May 31, 2018). Among these individuals, 9,322 people  
18      experienced homelessness for the first in the past year, an increase from 8,044 people in  
19      2017, and 3,042 seniors, an increase of 26 percent from the previous year. *Id.* Also  
20      included in the 31,516 were 3,002 children under the age of 18, and 1,575 transition-aged  
21      youth (youth between the ages of 18 and 24). *See* Los Angeles Homeless Services  
22      Authority, 2018 Greater Los Angeles Homeless Count – Data Summary (May 31, 2018)  
23      attached hereto as **Exhibit C**.

24           33.     The homelessness crisis is particularly acute for certain groups. People of  
25      color and people with disabilities are all more likely to be homeless than White people and  
26      people without disabilities. For example, although just 9% of the City’s population  
27      identifies as Black, Black individuals and families represented 39% of the homeless  
28      population in 2018. *See id.*; Los Angeles Department of City Planning, Citywide  
29      Demographic Profile, Census 2010. Together, Black and Latino individuals now make up  
30      74% of the City’s homeless population. In addition, 28% of homeless individuals report  
31      having a serious mental illness, 16% report having a physical disability and 6% report  
32      having a developmental disability. *Id.*

1           34. Homelessness is an issue in every one of the 15 Council Districts in the City.  
 2 Table 1 below contains the most recent homeless count data for the City.

3           **Table 1: 2018 Greater Los Angeles Homeless Count – City of Los Angeles**

District	Total Persons	Percent Change 2015-2018	Total Vehicles, Tents, and Makeshift Shelters
1	2,525	+29%	979
2	1,282	+111%	574
3	608	-2%	238
4	754	+21%	224
5	894	+2%	199
6	2,828	+86%	510
7	1,260	+19%	521
8	2,132	+30%	412
9	3,185	+33%	950
10	1,427	+6%	480
11	2,041	-14%	753
12	700	+23%	276
13	3,004	+32%	804
14	7,077	+12%	1,758
15	1,799	+17%	530

16 Sources: *See* Los Angeles Homeless Services Authority (“LAHSA”), Homelessness Count  
 17 by City Council District; LAHSA 2018 Greater Los Angeles Homeless Count - Data  
 18 Summary - Vehicles, Tents, And Makeshift Shelters By Geographic Area. Council  
 District 14 is where Skid Row is located, thus numbers for the district are higher than other  
 districts.

19           **Proposition HHH Was Approved in 2016 to Build 10,000 Units of Supportive and  
 20 Affordable Housing**

21           35. In response to this growing crisis, the City’s residents voted to tax  
 22 themselves in order to build permanent housing for the homeless. Proposition HHH was  
 23 proposed “to finance the acquisition or improvement of real property to provide[]  
 24 supportive housing for extremely low income or very low income individuals and families  
 25 who are homeless or chronically homeless...; temporary shelter facilities ... [for] those  
 26 who are homeless, chronically homeless or at risk of homelessness; [and] affordable  
 27 housing, including veterans housing, for extremely low income, very low income and/or  
 28 low income individuals and families, including those who are at risk of homelessness.”

1 See Proposition HHH, attached hereto as **Exhibit D**. Proposition HHH was based on the  
2 Los Angeles City Council’s findings that homelessness in Los Angeles affects “all  
3 segments of society, including all ethnicities and ages, and affects areas throughout the  
4 City of Los Angeles, [] creat[ing] a public health and safety crisis,” that “the  
5 homeless[ness] crisis has been exacerbated by the underbuilding of housing in the City of  
6 Los Angeles, which has created a shortage of housing for homeless persons,” and that  
7 “additional funding for housing is also needed ... to address the homeless[ness] crisis in  
8 the urgent, comprehensive and persistent manner it deserves.” *Id.*

9 36. On November 8, 2016, voters approved Proposition HHH, authorizing \$1.2  
10 billion in general obligation bonds to build 10,000 units of supportive and affordable  
11 housing over the next 10 years. The ballot initiative passed by a wide margin, with 77% of  
12 voters (916,518) voting in favor, representing a clear mandate from the people. *See*  
13 Nov. 8, 2016 Los Angeles City Special Municipal Election - Measure HHH Results.

14 37. Months later, Los Angeles County voters passed a second ballot measure,  
15 Measure H, to increase the county’s sales tax to fund services to address homelessness.  
16 *See* Mar. 7, 2017 Los Angeles County Election - Measure H Results (passing with the  
17 support of 69% of voters (585,905)). Measure H was proposed to “adopt a retail  
18 transactions and use tax ordinance for the specific purpose of preventing and combatting  
19 homelessness within Los Angeles County.” Measure H § 4.73.030. Measure H was aimed  
20 to prevent homelessness for families and individuals, to provide subsidized housing to  
21 homeless disabled individuals, and to promote the development of affordable housing for  
22 homeless families and individuals. *Id.* Both the Mayor and City Council strongly  
23 supported both of these ballot initiatives.

24 38. The voters recognized that “permanent supportive housing” is the best  
25 solution to getting those experiencing homelessness the housing, services, and stability  
26 they need. Chronically homeless individuals with disabilities in particular benefit  
27 significantly when provided with supportive housing. It has been well documented since  
28 the 1970s that supportive housing is the key component for ending homelessness for the

1 chronically homeless. See The Supportive Housing Network of NY, History of Supportive  
2 Housing, SHNNY.org. Supportive housing combines permanent shelter with services,  
3 which may include mental and physical health services, drug and alcohol treatment, and  
4 education and job training. See Los Angeles Housing and Community Investment  
5 Department, *What is Permanent Supportive Housing?*, HCIDLA.LACITY.org. When  
6 properly implemented, supportive housing results in chronically homeless residents  
7 becoming permanently sheltered and provides residents with opportunities to better access  
8 healthcare resources and pursue their educational or career goals. Participants in  
9 supportive housing programs access housing faster and are more likely to remain stably  
10 housed. See Leyla Gulcur, Ana Stefancic, Marybeth Shinn, Sam Tsemberis, & Sean  
11 Fischer. *Housing, Hospitalization, and Cost Outcomes for Homeless Individuals with*  
12 *Psychiatric Disabilities Participating in Continuum of Care and Housing First programs,*  
13 *13 J. of Community & Appl. Social Psychology* 176 (2003); Sam Tsemberis & Ronda  
14 Eisenberg, *Pathways to Housing: Supported Housing for Street-Dwelling Homeless*  
15 *Individuals with Psychiatric Disabilities.* 51 *Psychiatric Services* 487 (2000).

16         39. The voters also recognized that affordable housing in addition to supportive  
17 housing is an essential solution, as increasing numbers of people are driven into  
18 homelessness due to unemployment, evictions, discrimination, and a dearth of housing for  
19 the City’s lowest income residents. Proposition HHH, **Exhibit D** (“WHEREAS, low-  
20 income individuals and households face a greater risk and danger of homelessness because  
21 of the shortage of housing and affordable housing in the City of Los Angeles and resulting  
22 high rents. ... [T]o address this [homelessness] crisis, the public interest or necessity  
23 demands the acquisition or improvement of real property to provide[] supportive housing  
24 ... [and] affordable housing....”); see also The L.A. Times Editorial Board, *The homeless*  
25 *in L.A. are not who you think they are*, L.A. Times (Feb. 26, 2018). It is well-recognized  
26 that increasing the supply of affordable housing for low-income persons decreases  
27 homelessness. See **Exhibit D**; LAHSA, Homeless County 2017 Report, Greater Los  
28 Angeles Homeless Count, at 38-48; Bryce Covert, *The Deep, Uniquely American Roots of*

1 *Our Affordable-Housing Crisis*, The Nation (May 24, 2018).

2 40. With the passage of Proposition HHH, not only does Los Angeles have the  
3 financial means to build thousands of supportive housing and affordable housing units  
4 needed to drastically reduce the number of people experiencing homelessness, there is also  
5 land available to meet this demand. In a report to the City Council on March 5, 2018, the  
6 HCIDLA identified over 180,000 lots throughout the City that could be suitable for  
7 permanent supportive housing. Mar. 5, 2018 HCIDLA Report to the Los Angeles City  
8 Council, attached hereto as **Exhibit E**. The City has also identified 119 parking lots  
9 owned by the City Department of Transportation that could be suitable for housing for the  
10 homeless. *See Doug Smith, A plan to house L.A.'s homeless residents could transform*  
11 *parking lots across the city*, L.A. Times (Feb. 9, 2018).

12 **The Letter of Acknowledgment Policy**

13 41. The LOA is a mechanism by which individual councilmembers can block,  
14 delay, or improperly condition consideration of permanent supportive and affordable  
15 housing projects in the City. Since at least 2013 and continuing each year thereafter,  
16 Respondents have required and imposed the LOA requirement for nearly all affordable and  
17 supportive housing projects in the City. The LOA became a formal City policy on July 1,  
18 2013 when it was adopted as part of the regulations for the City's Affordable Housing  
19 Managed Pipeline, which the City created to oversee the various federal, state, and local  
20 funding streams for affordable housing development administered by HCIDLA, including  
21 most significantly the City's allocation of Low-Income Housing Tax Credits ("LIHTC").  
22 Council File 13-0824. The LOA requirement and procedures were later adopted as part of  
23 the Proposition HHH program regulations, which were proposed by HCIDLA and  
24 approved by the Mayor and the City Council on December 13, 2017. Council File 17-  
25 0090-S2. Section 2.7 of the Proposition HHH regulations requires an LOA in applications  
26 for funding:

27 ///

28 ///



1           **2.7    Letter of Acknowledgement**

2           The application for the Call for Projects must include a Letter of  
3           Acknowledgement from the Councilmember in whose district the  
4           Supportive housing development will be located. Applications not  
5           meeting this criteria will be automatically rejected and will not be  
6           considered for further review during the current Call for Projects  
7           (Attachment 2.7).

8           *See* Section 2.7, Proposition HHH Permanent Supportive Housing Program Regulations  
9           (Dec. 13, 2017), attached hereto as **Exhibit F**.

10           42.     Section 2.7 of the Proposition HHH regulations is nearly identical to, and  
11           was based upon, Section 2.7 of the Affordable Housing Managed Pipeline regulations. *See*  
12           Section 2.7, Affordable Housing Managed Pipeline Program Regulations (Apr. 27, 2018  
13           redline), attached hereto as **Exhibit G**.

14           43.     Additionally, Section 7.3 of the Affordable Housing Managed Pipeline  
15           Regulations requires applicants to submit a councilmember Letter of Support to establish  
16           “project readiness.” *See* Section 7.3, **Exhibit G**. Like the LOA requirement, the Letter of  
17           Support requirement allows the individual councilmember in whose district the project is  
18           proposed to stop, delay, or impermissibly condition the project funding, for any or no  
19           reason. Because of this, the Letter of Support requirement in the Affordable Housing  
20           Managed Pipeline regulations suffers from all of the same legal infirmities as the LOA  
21           requirement, as discussed herein.

22           44.     As with the Proposition HHH regulations, the Affordable Housing Managed  
23           Pipeline regulations were proposed by HCIDLA and approved by the Mayor and City  
24           Council. And as with Proposition HHH, the LOA is a threshold requirement to apply for  
25           and secure Affordable Housing Managed Pipeline funding. *Id.*

26           45.     The LOA policy is a requirement imposed only on developers who apply for  
27           Proposition HHH or Affordable Housing Managed Pipeline funding from the City. Both  
28           programs are administered by HCIDLA. There is no equivalent policy for unsubsidized  
29           housing developments. As stated in Section 2.7 of both the Proposition HHH and the  
30           Affordable Housing Managed Pipeline regulations, applications without an LOA from the

1 local councilmember in whose district the project will be located will be automatically  
2 rejected and not be eligible for any funding. Consequently, the LOA requirement gives  
3 individual councilmembers unfettered discretion to block or delay consideration of  
4 affordable and supportive housing projects as part of a secret behind-the-scenes process,  
5 thereby placing a substantial obstacle in the path of subsidized housing projects before  
6 they can even get off the ground.

7         46. In adopting the LOA policy as a threshold requirement, HCIDLA  
8 mischaracterized the LOA as a notice requirement, not a substantive approval requirement.  
9 The HCIDLA report recommending the Proposition HHH regulations stated that “the  
10 [Chief Administrative Officer] explained that it was important that Council Offices be  
11 informed regarding potential projects in their district and that the letter was an  
12 acknowledgement letter, not a support letter.” Joint report from the City of Los Angeles  
13 CAO, CLA, and HCIDLA, at 6 (Aug. 10, 2017). The purpose of the LOA was purportedly  
14 to “ensure that Council Offices are aware of the agencies applying in their District.” *Id.* at  
15 8.

16         47. HCIDLA requires applicants to use their template of the “Council Office  
17 Letter of Acknowledgement,” attached hereto as **Exhibit H**. The template requires  
18 applicants to include, among other things, the project sponsor, project name and address,  
19 total number of units, and number of homeless units. *Id.* The template also has three  
20 checkboxes where a councilmember can indicate their position on the project as “Strongly  
21 Support,” “Support,” or “No Position.” *Id.* Notably absent is an “Oppose” option;  
22 however, councilmembers demonstrate their opposition by refusing to even sign an LOA  
23 and thereby preventing consideration of the project.

24         48. HCIDLA has provided councilmembers with no guidance or standards to  
25 limit an individual councilmember’s discretion to decline to issue or withhold an LOA for  
26 any or no reason. HCIDLA does not even address the possibility of withholding an LOA.  
27 Consequently, each councilmember has apparently developed their own policies based on  
28 their perception of their district’s needs. *See Emily Alpert Reyes, Here’s how easy it is to*

1 *block a homeless housing project in L.A.*, L.A. Times (May 31, 2018). Councilmembers  
2 have been given free rein to refuse an LOA for any reason or no reason, including any  
3 manner of illegal, discriminatory reasons.

4 **The Letter of Acknowledgment Does Not Function as a Mere Acknowledgment and**  
5 **Has Been Used to Block Supportive and Affordable Housing Projects**

6 49. The LOA does not function as a mere acknowledgement. Rather, it  
7 effectively constitutes a delegation of legislative power to approve Proposition HHH or  
8 Affordable Housing Managed Pipeline funding to the councilmember of the district where  
9 the project is proposed. Councilmembers have refused to issue letters for projects that they  
10 do not want in their districts, or used the necessity of the letter as a leveraging tool  
11 empowering vocal neighborhood opponents to influence the design and population of  
12 projects. As stated above, since the passage of Proposition HHH, several districts still do  
13 not have any approved housing using Proposition HHH funds. Of the Proposition HHH  
14 and Affordable Housing Managed Pipeline projects that have been approved, many have  
15 faced delays or pressure to scale back the size of the project, provide fewer units set-aside  
16 for tenants with mental disabilities, or include costly design concessions to appease vocal  
17 neighborhood groups. *See e.g.*, The L.A. Times Editorial Board, *Don't let NIMBYs – or*  
18 *weak-kneed politicians – stand in the way of homeless housing*, L.A. Times (Feb. 27,  
19 2018). These changes are purely discretionary and not required by the terms of the  
20 Proposition HHH program. Further, although such changes appear to be neutral at first  
21 glance, requests for population changes of a project, for instance for more family housing  
22 and fewer studio apartments for individuals, are often pretext for discriminatory animus  
23 against homeless residents and other groups, such as people of color and people with  
24 disabilities, who are homeless in disproportionate numbers.

25 50. Notwithstanding the severity of the homelessness crisis, the lack of sufficient  
26 affordable housing and the voters' willingness to tax themselves to address these problems,  
27 the LOA requirement effectively permits individual members of the City Council to delay  
28 and block development of supportive and affordable housing. The LOA requirement has

1 caused or contributed to the lack of consideration of potential supportive and affordable  
2 housing projects: individual councilmembers can and do use the LOA requirement to  
3 extract concessions, direct project sponsors to privately negotiate with local groups and  
4 neighborhood councils who in turn try to demand project changes or other costly  
5 concessions before the councilmember will send the needed LOA. Many times no letter is  
6 sent at all and the project just quietly dies.

7         51. The statistics demonstrate that there are several Council Districts where there  
8 are *no* approved Proposition HHH projects. In total, there are 29 combined HHH projects  
9 in predevelopment or in construction in Council Districts 1, 2, 4, 6, 7, 8, 9, 10, 11, 13, and  
10 14. *See* Prop HHH Developments Financial Report, attached hereto as **Exhibit I**. Eleven  
11 projects applied for funding in the second round in Council Districts 1, 7, 9, 11, 13, and 14.  
12 *See* 2017-2018 HHH Call for Projects, attached hereto as **Exhibit J**. There are zero  
13 projects currently approved for Council Districts 3, 5, 12, and 15.

14         52. There are few examples in the public record of LOA denials because the  
15 process of seeking an LOA occurs out of the public eye. In districts where there are zero  
16 approved Proposition HHH projects (Council Districts 3, 5, 12, and 15) developers are  
17 hesitant to even approach the councilmembers of those districts due to well-known  
18 NIMBY opposition. According to the Los Angeles Times, the councilmember for Council  
19 District 5, home to some of the City’s wealthiest communities, said that his constituents  
20 are “among the most likely to balk at proposed sites for homeless housing.” Emily Alpert  
21 Reyes, *L.A. lawmakers pledge 222 units for homeless residents in each district*, L.A.  
22 Times (Mar. 20, 2018). Yet that councilmember has expressly conditioned his agreement  
23 to issue an LOA on “neighborhood council support” and “acceptance” of the proposed  
24 project. *See* Nov. 3, 2017 email from Steven J. Spielberg to Councilmember Koretz and  
25 staff, attached hereto as **Exhibit K**. The existence of the LOA as a pre-condition for  
26 advancing any affordable and supportive housing project thus allows individual  
27 councilmembers to effectively stop cold such developments in their districts.

28         53. Reporting by the Los Angeles Times found that at least one councilmember

1 in the City refused to issue an LOA unless the developer agreed to population changes to  
2 the project to serve fewer chronically homeless individuals and more families at risk of  
3 homelessness, among other reasons. Emily Alpert Reyes, *L.A. lawmakers can block*  
4 *homeless housing projects by simply withholding a key letter*, L.A. Times (Mar. 12, 2018).  
5 Chronically homeless individuals tend to have disabilities, while families at risk of  
6 homelessness tend to have disabilities at far lesser rates. See LAHSA, Homeless County  
7 2017 Report, Greater Los Angeles Homeless Count, at 78-80, 84-86. Because the 51-unit  
8 project was missing an LOA, it could not proceed, even though the project was  
9 “theoretically viable.” Feb. 16, 2018 HCIDLA Report and Recommendation to Council at  
10 5. This project is one of the only examples where a developer applied for HHH funding  
11 despite not having an LOA (needless to say, the project did not receive funding).

12         54. In another proposed HHH project in Sun Valley in Council District 6, the  
13 developer was told in a brief email that the individual councilmember “would not support  
14 an HHH application.” See Oct. 2, 2017 email from Ackley Padilla to Christine Villegas  
15 and Christopher Murray, attached hereto as **Exhibit L**. The proposed site, which could  
16 have housed 25 homeless people, is still vacant.

17         55. Even when councilmembers are willing to issue an LOA, they use the LOA  
18 requirement as a leveraging tool to impact projects - in a manner prohibited by existing  
19 law’s protections for supportive and affordable housing. For example, the councilmember  
20 for Council District 7 directed one developer to conduct outreach, secure community  
21 feedback about the “impact to the community” of their proposed project, and eventually  
22 required substantive changes to the design of the project in exchange for issuing an LOA.  
23 See Mar. 6, 2018 email from Tran Le to Emily Alpert Reyes, attached hereto as  
24 **Exhibit M**. Developers apparently even feel they must cater to the councilmember’s  
25 individual taste in design, tenant population, and architecture. See Oct. 23, 2017 email  
26 from Steve Spielberg to Elaine De Leon, asking the “percentage of homeless [the  
27 councilmember] would like to see” and whether the councilmember had “a design type  
28 and/or particular architect he likes,” attached hereto as **Exhibit N**.

1           56.     Despite knowing that the LOA policy results in funding, location, and  
2 project approval decisions that impede the achievement of fair housing goals and that  
3 make affordable housing unavailable to persons protected by the fair housing laws,  
4 Respondents continue to propose and approve Proposition HHH and Affordable Housing  
5 Managed Pipeline regulations with the LOA annually.

6           **The Letter of Acknowledgement Functions as a Discriminatory and Impermissible**  
7           **Veto: It Allows Decisions Based on Animus against Homeless Residents and**  
8           **Supportive and Affordable Housing Resulting in an Imposition of Costly Concessions**  
9           **that Limit the Scope and Economic Feasibility of Proposed Projects**

10           57.     In refusing, delaying, or otherwise improperly conditioning the issuance of  
11 LOAs, councilmembers have invoked and incorporated fears and animosity toward  
12 homeless residents expressed by some of their constituents, while failing to provide any  
13 legitimate reasons for doing so, revealing that these decisions are driven solely by  
14 discriminatory animus. *Cleburne*, 473 U.S. at 451 (holding that City’s insistence on  
15 special use permits for homes for the mentally disabled was concerned with “negative  
16 attitudes [and] fear [expressed by nearby property owners] unsubstantiated by factors  
17 which are properly cognizable” and thus rested on discriminatory animus); *Avenue 6E*  
18 *Investments, LLC v. City of Yuma, Ariz.*, 818 F.3d 493, 504 (9th Cir. 2016) (“The presence  
19 of community animus can support a finding of discriminatory motives by government  
20 officials, even if the officials do not personally hold such views.”).

21           58.     The LOA policy gives NIMBY voices, who represent a small minority that  
22 express animosity toward the development of supportive and affordable housing in their  
23 communities, a back-door mechanism by which to block a project at inception. Frequently  
24 cited NIMBY concerns include: “fear that new residents will threaten community safety,  
25 and create a variety of nuisances, from increased traffic, to overcrowded schools, to  
26 environmental degradation.” Corianne Payton Scally & J. Rosie Scally, *Democracy in*  
27 *Action? NIMBY as Impediment to Equitable Affordable Housing Siting* (Sept. 18, 2014),  
28 at 15, available at: <https://ssrn.com/abstract=2580363>. Such concerns have been cited by  
groups in Venice in Council District 11 in their opposition to various supportive housing

1 projects in the district: “the City also is failing to effectively protect local residents from  
2 crime and violations of public safety laws caused directly by transients and some homeless  
3 people. Whatever ‘development strategies’ the City may be exploring with private  
4 developers, such strategies should include placement of homeless housing in locations that  
5 are not likely to cause significant detrimental impacts on single-family homeowners and  
6 residents.” *See* Sept. 12, 2016 Letter from Robert L. Glushon on behalf of Oxford  
7 Triangle Association to Office of City Administrative Officer, available at:  
8 <https://app.box.com/s/tnt8dm3k4x15uy4wz0guurgucssu86z2>. These are also precisely the  
9 types of concerns that some councilmembers have cited in their comments about homeless  
10 encampments in their districts. But such concerns are mostly without justification and are  
11 merely code for discriminatory animus toward the homeless and groups protected by the  
12 fair housing laws which comprise the homeless population. *Cleburne*, 473 U.S. at 451;  
13 *Avenue 6E Investments*, 818 F.3d at 505.

14         59. Such NIMBY opposition and deliberate discriminatory housing policies have  
15 contributed to the segregated map of Los Angeles we see today. The City’s own  
16 Assessment of Fair Housing (“AFH”) acknowledges that community opposition and siting  
17 selection policies are barriers to fair housing and are significant contributing factors to  
18 segregation in Los Angeles: “In recent years, community opposition has played a role in  
19 hindering the development of high-density or affordable housing, both of which are  
20 disproportionately occupied by people of color.” City of Los Angeles & HCIDLA,  
21 Assessment of Fair Housing Plan 2018-2023, at 91 (Oct. 25, 2017), available at:  
22 <http://hcidla.lacity.org/assessment-fair-housing>. The AFH specifically cites “community  
23 opposition” as preventing “affordable multifamily housing from being built in many parts  
24 of the city thus contributing to segregation by race and income.” *Id.* at 249. The AFH  
25 further states that, “[t]o increase the stock of affordable housing throughout the City,  
26 particularly in neighborhoods of opportunity, there is a need for the removal of barriers  
27 that make affordable housing more difficult to produce, especially in certain  
28 neighborhoods,” such as “discretionary approvals that require public hearings where

1 opposition based on stereotypes and fears about people of color, people with disabilities  
2 and low-income people make affordable housing difficult to locate in affluent or  
3 segregated neighborhoods.” *Id.* at 309.

4 60. As structured, the LOA is a vehicle for “community opposition” and  
5 “discretionary approval,” which are both cited as barriers to the equitable siting of housing  
6 in the AFH. The LOA policy thus provides a mechanism by which discriminatory  
7 sentiments can and do influence, obstruct, and prevent the siting of affordable and  
8 supportive housing in the City.

9 61. The LOA policy gives individual councilmembers, under pressure from  
10 entrenched local interests, an impermissible veto over the equitable siting of affordable and  
11 supportive housing projects in the City. This enables a vocal minority to actuate their fear  
12 and animosity toward homeless individuals and affordable housing, and stand in the way  
13 of the will of the majority who voted to tax themselves so that this very housing could be  
14 built. Giving the force of law to this animus is discriminatory and unlawful. Put simply,  
15 the City “may not avoid the strictures of [Equal Protection] by deferring to the wishes or  
16 objections of some fraction of the body politic. ‘Private biases may be outside the reach of  
17 the law, but the law cannot, directly or indirectly, give them effect.’” *Cleburne*, 473 U.S.  
18 at 448. Yet, by adopting and maintaining the LOA policy, the City of Los Angeles is  
19 doing just that.

20 **The Letter of Acknowledgment Policy Has a Disparate Impact on People of Color**  
21 **and Individuals with Disabilities and Perpetuates Racial and Economic Segregation**  
22 **in the City of Los Angeles**

23 62. As stated above, homeless residents in Los Angeles are disproportionately  
24 people of color and individuals with disabilities. For example, the odds that a White  
25 Angeleno was homeless in 2018 was 1 in 289, while the odds that a Black Angeleno was  
26 homeless was 10 times higher: 1 in 29. Because the LOA policy is blocking, delaying, and  
27 conditioning the development of supportive and affordable housing, for which people of  
28 color and individuals with disabilities disproportionately qualify, it has a disparate impact  
on these protected classes of individuals.



1           63. Respondents' adoption and annual re-adoption of the LOA policy also  
2 perpetuates the segregation of people of color and lower income households by furthering  
3 the concentration of supportive housing and affordable housing in already segregated, poor  
4 parts of the City. The LOA policy disparately impacts low-income people of color and  
5 individuals with disabilities as they are the main occupants of these subsidized housing  
6 projects and are thus prevented from living in areas of higher opportunity in the City.

7           64. Los Angeles has significant levels of segregation. Latinos are the largest  
8 ethnic group in Los Angeles at 48% and are most concentrated in East Los Angeles,  
9 Northeast Los Angeles, South Los Angeles, and in areas surrounding the Port of Los  
10 Angeles at the southern tip of the City, as well as in eastern sections of the San Fernando  
11 Valley. Los Angeles Department of City Planning, Citywide Demographic Profile, Census  
12 2010; AFH at 64, 105. Black residents are heavily concentrated in South LA; in fact, 29%  
13 of all Black residents in Los Angeles County live in South Los Angeles. AFH at 65.  
14 Asian Americans and Pacific Islanders are most concentrated in Central Los Angeles,  
15 portions of Northeast Los Angeles, West Los Angeles, and the San Fernando Valley. *Id.* at  
16 66. White residents are most concentrated in West Los Angeles and in the San Fernando  
17 Valley. *Id.* at 67. Many neighborhoods in West Los Angeles have a much higher  
18 percentage of White residents than the City does as a whole. *Id.*

19           65. Research has found that urban areas with high levels of segregation tend to  
20 have lower levels of upward economic mobility, and that racial inequality is thus amplified  
21 by residential segregation. *Id.* at 102. Concentrated poverty is associated with worse  
22 health outcomes, lower educational attainment, and less economic opportunity. *Id.* at 102,  
23 123. For example, the City's AFH noted that census tracts around racially and ethnically  
24 concentrated areas of poverty have particularly low access to proficient schools. *Id.* at  
25 123. Neighborhoods in East Los Angeles, Central Los Angeles, and South Los Angeles  
26 have the least access to proficient schools, while West Los Angeles and the San Fernando  
27 Valley, who are predominantly White and Asian, have the City's greatest access to  
28 proficient schools. *Id.* at 123, 141.

1           66. Supportive housing is currently primarily sited in segregated, poor parts of  
2 the City. A March 5, 2018 report from HCIDLA to the City Council, which looked at the  
3 current and potential siting of permanent supportive housing, found that the majority of  
4 completed permanent supportive housing and HHH projects are in “high segregation and  
5 poverty resource area[s]” or “low resource area[s],” noting that “high segregation and  
6 poverty and low resource areas have been the prime investment locations for siting  
7 [permanent supportive housing] projects *for over a decade.*” See **Exhibit E** at 7, 3 (citing  
8 the opportunity resource categories developed by the state, which are based on a composite  
9 metric of economic, environmental, and educational indices). Specifically, the report  
10 found that Council Districts 1, 9, and 14 have the highest number of permanent supportive  
11 housing and recently approved HHH units, as well as contain a high percentage of the  
12 City’s high segregation and poverty census tracts, 17%, 22%, and 10% respectively. *Id.* at  
13 5. More than 55% of the City’s completed permanent supportive housing projects and  
14 units are in high segregation and poverty areas and more than 20% of units are in low  
15 resource areas. Additionally, more than 55% of the City’s recommended HHH allocation  
16 identified at the time of the report are located in high segregation and poverty areas.  
17 Council Districts 1, 13, and 15 contain the highest number of permanent supportive  
18 housing units that are in construction, and the majority of these units (56%) are in high  
19 segregation and poverty areas. *Id.* Council Districts 8, 9, and 14 reflect the highest  
20 number of HHH predevelopment units, and the majority (67%) of the City’s HHH units in  
21 predevelopment are in high segregation and poverty areas. The report also found that  
22 many of the permanent supportive housing/HHH projects are sited in areas of racially and  
23 ethnically concentrated areas of poverty. *Id.* at 6.

24           67. By contrast, the HCIDLA report found that certain Council Districts have a  
25 tremendous amount of landbase lots in their high opportunity census tracts, “which are  
26 valuable sources for increasing affordable housing opportunities, and are not currently  
27 maximized.” *Id.* at 4 (defining landbase lots as parcels located in a High Quality Transit  
28 Area that are zoned for multi-family residential use), 7. Specifically, Council Districts 4,

1 5, and 11 “contain a large percentage of [permanent supportive housing] land base lots in  
2 their highest and high resource areas – 87%, 93% and 80% respectively. *Id.* at 7-8. The  
3 report recommended that these districts “are areas for the City’s keen consideration of  
4 housing for those most in need of housing coupled with services” and “should be taken  
5 into account in how Los Angeles funds projects in the underutilized sections of the city.”  
6 *Id.* at 8.

7 68. The map that follows was included in the HCIDLA report to the City  
8 Council as Attachment E. It shows the concentration of permanent supportive housing and  
9 HHH units in areas of high segregation and poverty.

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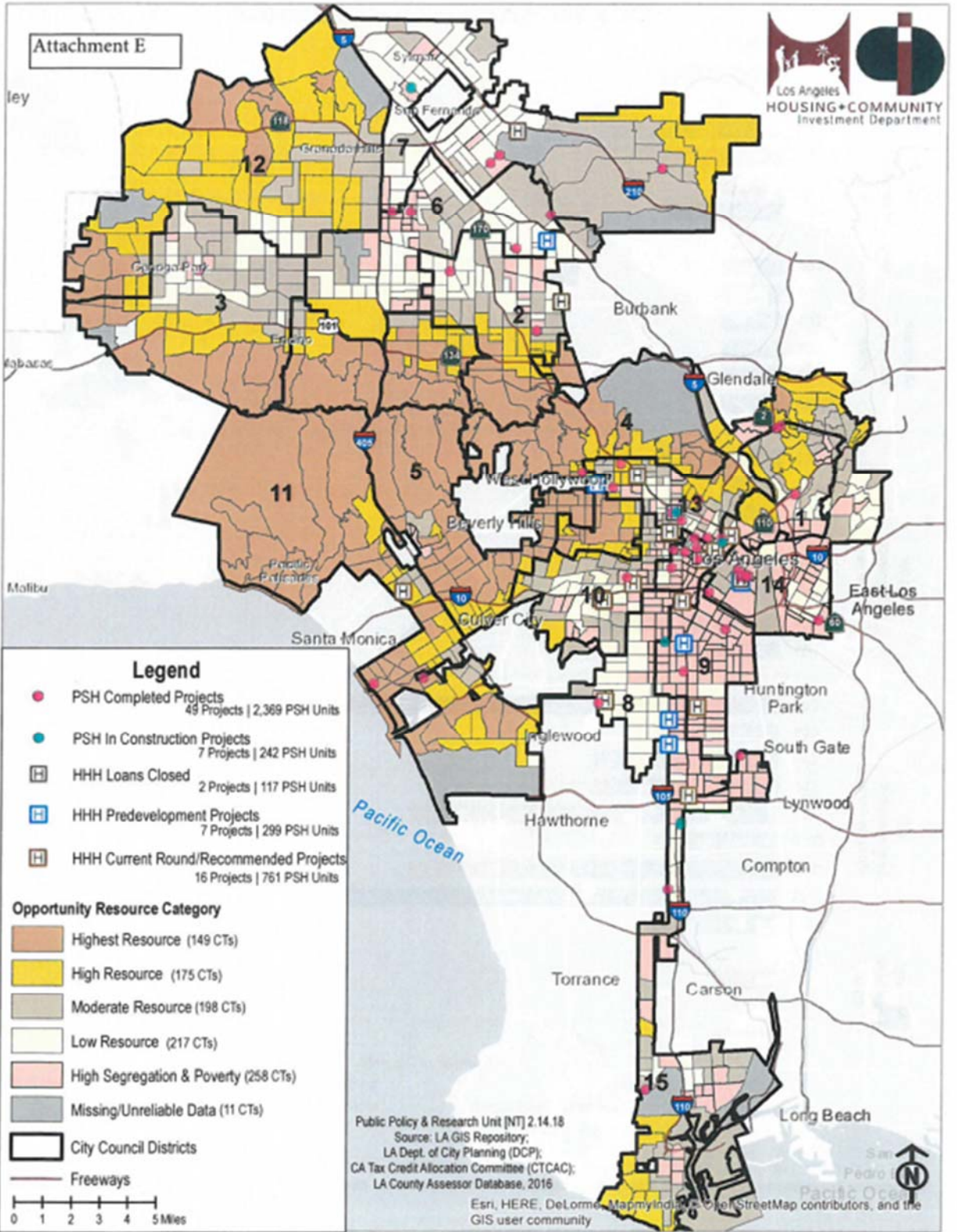
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City of Los Angeles: 2018 TCAC/HCD Opportunity Areas and Permanent Supportive Housing/HHH Projects

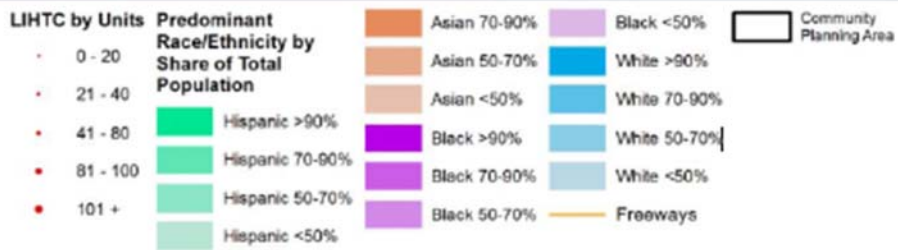
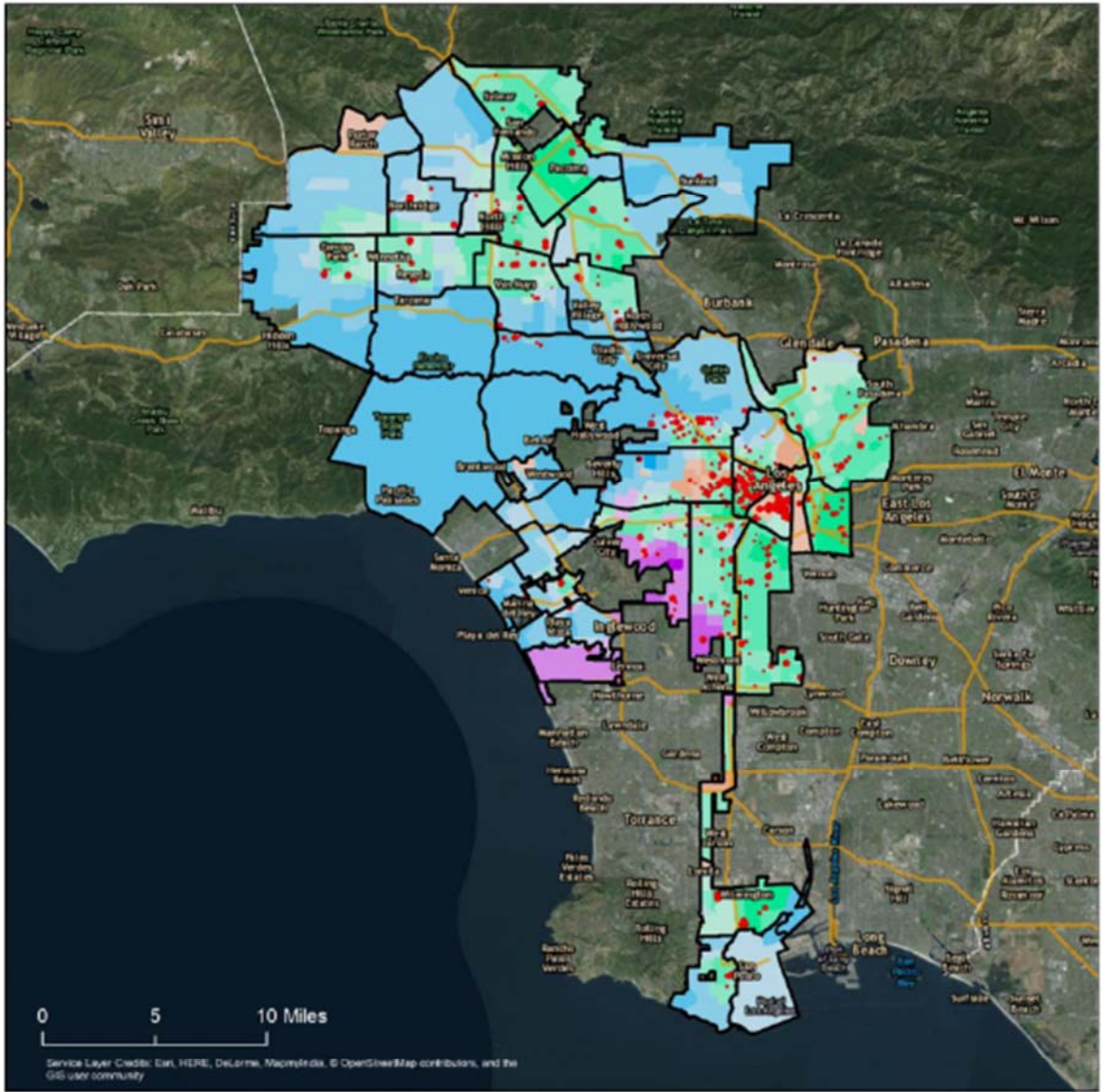


1           69.     The siting of affordable housing follows the same pattern as supportive  
2 housing in the City. There are 28,830 low-income units in LIHTC-financed developments  
3 in the City. *See* AFH at 317. As acknowledged in the City’s AFH, LIHTC siting practices  
4 between 2003 and 2015 have constructed “few units in high opportunity areas.” *Id.* at 250.  
5 Further, “[p]ublic housing and LIHTC housing are largely located in segregated,  
6 predominantly Hispanic, Asian, and Black neighborhoods.” *Id.* at 386. “[A]ll forms of  
7 publicly supported housing including Low-Income Housing Tax Credit properties, project-  
8 based section 8 properties, public housing units, and other multi-family units are more  
9 concentrated in less affluent communities in South LA, East LA, Central LA, and portions  
10 of the San Fernando Valley. Relatively little affordable housing is located in West LA.  
11 The siting of publicly supported housing can limit fair housing choice and contribute to  
12 segregation. The occupants of publicly supported housing are disproportionately members  
13 of protected classes.” *Id.* at 99. According to the AFH, “[t]he high cost of land and  
14 community opposition from residents in high-opportunity areas creates barriers to  
15 affordable housing there,” *id.* at 386, and “the location of affordable housing helps to  
16 perpetuate racial segregation.” *Id.* at 249.

17           70.     The scarcity of affordable housing in predominantly White neighborhoods is  
18 starkly illustrated by the map that follows, which was included in the AFH and shows the  
19 concentration of LIHTC units in segregated, predominantly Hispanic, Asian, and Black  
20 neighborhoods with few LIHTC projects in the predominantly White neighborhoods of  
21 West Van Nuys, Encino, Tarzana, Westwood, West Los Angeles, Brentwood, and Pacific  
22 Palisades. *Id.* at 289–90.

23 ///  
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City of L.A. AFH: LIHTC Developments by Number of Units and Race and Ethnicity in 2010



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1           71.     The fact that this data is drawn from the City’s own reports – the AFH and  
2 the HCIDLA report to the City Council – demonstrates that Respondents are aware of the  
3 role that the siting of supportive and affordable housing projects plays in perpetuating  
4 existing patterns of racial and economic segregation. The City has also explicitly cited  
5 community opposition and site selection policies as barriers to fair housing in its AFH.  
6 Yet, the City continues to remain deliberately indifferent to the problem by maintaining a  
7 backdoor mechanism in the form of an LOA that preserves these existing patterns.

8           72.     The LOA policy perpetuates these patterns of segregation because it can be  
9 and has been used by individual councilmembers of predominantly White, wealthy parts of  
10 the City to block the siting of supportive and affordable housing in their districts.

11                   **Federal and State Law Do Not Require a Letter of Acknowledgment**

12           73.     The LOA policy gives individual councilmembers the power to bar  
13 affordable and supportive housing from their districts without a vote of the City Council.  
14 This level of discretion is not mandated by federal or state law, and is serving as an  
15 artificial, arbitrary, and unnecessary barrier to the equitable siting and development of  
16 affordable and supportive housing in the City.

17           74.     Federal law does not require such a barrier. Rather, federal law requires  
18 California to adopt a Qualified Allocation Plan (“QAP”) to allocate the tax credits to  
19 projects based upon the state’s priorities and federally mandated requirements. The  
20 applicable federal statute covering local involvement in the siting of tax credit properties,  
21 26 U.S.C. § 42(m)(1)(A)(ii), mandates only that the agency notify “the chief executive  
22 officer (or the equivalent) of the local jurisdiction within which the building is located of  
23 such project and provide[] such individual a reasonable opportunity to comment on the  
24 project.” This minimal local notification and comment provision does not require local  
25 approval, contribution, or support in any form, and certainly not on the level of the  
26 individual councilmember. By granting greater control than required, the City is  
27 subjecting to local veto all affordable tax credit developments.

28           75.     Revenue Ruling 2016-29 interpreted § 42(m)(1)(A)(ii) and found that the

1 provision does not require agencies to reject proposals that do not obtain local approval of  
2 the proposed development. Revenue Ruling 2016-29 found not only that such local  
3 approval requirements were unnecessary under federal law, but also that they may be  
4 harmful because they are “inconsistent” with “Federal fair-housing policy.” According to  
5 the IRS, “§ 42(m)(1)(A)(ii) ensures only the opportunity for local input to the allocation  
6 decision. It does not authorize an allocating agency to abandon the responsibility to  
7 exercise its own judgment. In particular, *it does not require or encourage allocating*  
8 *agencies to bestow veto power over LIHTC projects either on local communities or on*  
9 *local public officials.”* Revenue Ruling 2016-29 (emphasis added). The IRS’s  
10 interpretations of the Internal Revenue Code are entitled to substantial deference, and leave  
11 no doubt that federal law does not require local approval of the proposed development of  
12 tax credit properties.

13         76. Because local approval requirements contravene and frustrate federal fair  
14 housing policy, such requirements have been the subject of litigation. For instance, the  
15 Baltimore Regional Housing Campaign filed a complaint with HUD alleging that a  
16 Maryland state policy requiring tax credit applications to receive a resolution of support  
17 from the local jurisdiction in which the project was located had the effect of limiting  
18 development of affordable housing in high opportunity White communities. *See, e.g.,*  
19 *Baltimore Reg’l Hous. Campaign v. Maryland*, Housing Discrimination Complaint (Aug.  
20 30, 2011). The State settled the complaint with HUD in 2017 and agreed to remove the  
21 requirement and to other relief to alleviate the impact of the requirement on housing  
22 location decisions. *See* Press Release of Settlement of HUD Fair Housing Complaint  
23 Concerning Maryland’s Administration of LIHTC Program, available at:  
24 <http://www.relmanlaw.com/civil-rights-litigation/cases/HUDvMaryland.php>. This  
25 litigation confirms the view of the federal authorities charged with the promotion of fair  
26 housing opportunities: federal law does not mandate local approval requirements, rather  
27 federal law prohibits such requirements because of their negative impact on affordable and  
28 supportive housing development opportunities.



1           77. State law also does not require such a barrier. California has established  
2 procedures for the reservation, allocation, and compliance monitoring of federal and state  
3 low-income housing tax credit programs. *See* 4 C.C.R. §§ 10300, et seq. With regard to  
4 local authorization, the regulations require notification “of the local jurisdiction within  
5 which the proposed project is located” and provision of “an opportunity to comment on the  
6 proposed project.” *See* 4 C.C.R. § 10305(e) (citing 26 U.S.C. § 42(m)(1)(A)(ii)). There is  
7 no state statute or regulation that expressly imposes a local approval and/or contribution  
8 requirement on the state’s allocation of federal subsidies or LIHTC tax credits, and the  
9 QAP itself does not contain such requirements.

10           **The Letter of Acknowledgment is Contrary to State and Local Housing Law and**  
11           **Policy**

12           78. The City’s LOA policy is contrary to the fair housing goals and policies of  
13 the state and violates the California Government Code. The state has passed anti-NIMBY  
14 laws and laws to encourage the development of supportive housing and affordable  
15 housing. The state Density Bonus law requires cities to offer incentives such as higher  
16 density and reduced parking for projects that include affordable housing. *See* Cal. Gov.  
17 Code § 65915. Under the state Housing Accountability Act, otherwise known as the “anti-  
18 NIMBY law,” a local agency may not disapprove, or condition approval of an affordable  
19 housing project or shelter in a manner that renders the project infeasible, unless narrow  
20 conditions are met. *See* Cal. Gov. Code § 65589.5. And, the California Housing Element  
21 Law, requires California cities to adopt general plans that include a housing element, and  
22 to act consistently with the goals and requirements of that general plan in making decisions  
23 relating to the siting of housing. *See* Cal. Gov. Code § 65302 and § 65587.

24           79. The City’s LOA policy is also contrary to the City’s own goals and policies  
25 in other ways. The City has adopted laws to encourage the development of affordable and  
26 supportive housing. The City recently adopted a supportive housing “streamlining”  
27 ordinance to expand the opportunity for supportive housing projects without discretionary  
28 approvals and to reduce parking requirements. Council File 17-1422, Ordinance No.

1 185492, effective May 28, 2018.

2 80. The City’s LOA policy undermines and contravenes the intent of these state  
3 and local laws. Despite councilmembers’ assertion that the LOA is necessary to ensure  
4 community support, it is not necessary to use the LOA as a tool to ensure community  
5 support. There is sufficient opportunity for public input through the community planning  
6 process. The City’s LOA policy, which is in addition to the City’s planning process,  
7 functions to undermine the goals and policies of that planning process.

8 **The Letter of Acknowledgment Policy Violates Cal. Gov. Code 65008’s Prohibition of**  
9 **Discrimination Against Subsidized Housing**

10 81. California Government Code § 65008 is a unique anti-discrimination statute  
11 that expressly prohibits local governments from discriminating against specified residential  
12 developments for specified reasons including because the housing is subsidized or  
13 intended for the occupancy of lower and moderate income households. It is one of the  
14 many laws the state has adopted to “expedite the construction of affordable housing.” §  
15 65582.1(m).

16 82. Section 65008(b) prohibits discrimination by a local government against any  
17 residential development or emergency shelter because of, among other things, its method  
18 of financing or its intended occupancy by very low, low, moderate or middle income  
19 persons or families.

20 83. Section 65008(d)(1) prohibits a local government from imposing “different  
21 requirements on a residential development or emergency shelter that is subsidized,  
22 financed, insured, or otherwise assisted by federal or state government or by a local public  
23 entity... than those placed on nonassisted developments....” This includes the denial or  
24 conditioning of the development or shelter based in whole or in part on the development  
25 being subsidized or financed by a governmental entity.

26 84. As alleged, in direct violation of § 65008, the City requires an LOA for  
27 residential developments or emergency shelters that are intended for occupancy for lower  
28 income persons or households and that are seeking financing or other financial subsidies

1 from the City. The City does not require an LOA for developments that are not subsidized,  
2 financed, insured, or otherwise assisted by federal or state government or by a local public  
3 entity.

4 **The Letter of Acknowledgment Policy Violates California Housing Element Law**

5 85. California Housing Element Law (Government Code §§ 65580 – 65589.8)  
6 requires local governments to make adequate provision for the housing needs of all  
7 economic segments of the community through the enactment and implementation of a  
8 regularly updated Housing Element of the local General Plan. § 65581(a) and §65583. It  
9 declares that the availability of housing is of vital statewide importance and a priority of  
10 the highest order and that local governments have a responsibility to use their powers to  
11 facilitate the improvement and development of housing for all income levels. § 65580.

12 86. The Housing Element must, among other things, assess its existing and  
13 projected need for affordable housing, which must include the allocated share of the  
14 regional need and special housing needs such as the need for housing for the homeless  
15 and needs of persons with disabilities. § 65583(a)(1) and (a)(7).

16 87. The Housing Element must also analyze the governmental constraints to  
17 meeting the housing needs of all income levels, including the need for supportive housing,  
18 emergency shelters and transitional housing. § 65583(a)(5) and (c)(1). Constraints that  
19 must be assessed include local process and permit procedures and “any locally adopted  
20 ordinances that directly impact the cost and supply of residential development.” §  
21 65583(a)(5). The analysis must also “demonstrate efforts to remove governmental  
22 constraints that hinder the locality from meeting its share of the regional housing  
23 need...and from meeting the need for housing for persons with disabilities, supportive  
24 housing, transitional housing and emergency shelters....” *Id.*

25 88. Senate Bill No. 2 (Cedillo), enacted on October 13, 2007, which amends the  
26 Housing Element Law, requires that supportive housing not be subject to any additional  
27 restrictions not imposed on residential uses of the same type in the same zone. Cal. Gov.  
28 Code § 65583(a)(5).

1           89.     As alleged, the LOA requirement violates these provisions of Housing  
2 Element Law because developers seeking funding for supportive housing pursuant to  
3 Proposition HHH or the Affordable Housing Managed Pipeline must procure a  
4 discretionary LOA, which is not required of other residential developments and the denial  
5 of which effectively results in disapproval of the proposed housing.

6                   **The Letter of Acknowledgement Policy Is Inconsistent with the City’s Housing**  
7   **Element**

8           90.     The City’s actions must be consistent with its General Plan, including the  
9 Housing Element of the General Plan. *See* Gov’t Code § 65587.

10           91.     Objective 2.5 of the City’s Housing Element provides that the City will  
11 promote “a more equitable distribution of affordable housing opportunities throughout the  
12 city.” The implementing policy 2.5.2 requires that the City will “[f]oster development of  
13 new affordable housing units citywide and within each Community Plan area.” The City’s  
14 LOA policy is inconsistent with this objective and policy because it permits individual city  
15 councilmembers to disapprove supportive housing and affordable housing developments in  
16 their geographic districts by simply not issuing the LOA without providing any basis for  
17 the non-issuance.

18           92.     Goal 4 of the Housing Element is that Los Angeles is a city committed to  
19 preventing and ending homelessness. Objective 4.1 of that goal is for the City to  
20 “[p]rovide an adequate supply of short-term and permanent housing and services  
21 throughout the City that are appropriate and meet the specific needs of all persons who are  
22 homeless or at risk of homelessness.” And the implementing policy 4.1.6 requires that the  
23 City “[p]rovide housing facilities and supportive services for the homeless and special  
24 needs populations throughout the City, and reduce zoning and other regulatory barriers to  
25 their placement and operation in appropriate locations.” The City’s LOA policy is  
26 inconsistent with this goal, objective and policy because it permits individual city  
27 councilmembers to disapprove supportive housing and affordable housing developments in  
28 their geographic districts by refusing to issue the LOA without any basis for the non-

1 issuance, creating a regulatory barrier to the placement of supportive and affordable  
2 housing in appropriate locations throughout the city. Thus, instead of “reduc[ing]”  
3 barriers, the City has created and is maintaining a significant barrier to these projects, in  
4 the form of the LOA requirement.

5 **The Letter of Acknowledgement Policy Violates the City Charter and Constitutes an**  
6 **Illegal Delegation of the City’s Municipal Powers**

7 93. Section 244 of the Los Angeles City Charter provides that “[e]xcept as  
8 otherwise provided in the Charter, action by the Council shall be taken by majority vote of  
9 the entire membership of the Council.” No provision of the charter allows action to  
10 approve or disapprove expenditure of Proposition HHH or the Affordable Housing  
11 Managed Pipeline funds or the development of housing by a lone councilmember.

12 94. California Constitution, Article XI, Section 7 grants cities and counties the  
13 power to make and enforce local laws pursuant to their police power.

14 95. Under the LOA policy in Section 2.7 of the Proposition HHH regulations  
15 and the Affordable Housing Managed Pipeline regulations, however, city staff are required  
16 to automatically reject and may not further consider an application for these funds if it is  
17 not submitted with an LOA from the councilmember of the Council District for which the  
18 development is proposed. The decision to issue or not issue the LOA is not subject to any  
19 standards or safeguards and, therefore, is left to the uncontrolled discretion of the  
20 individual councilmember.

21 96. The LOA policy thus effectively delegates the legislative and executive  
22 power to approve or reject an application for these funds from the City Council and the  
23 Mayor to the individual councilmember of the Council District where the project is  
24 proposed.

25 97. The delegation authorized by the LOA policy violates the City Charter and  
26 constitutes an impermissible delegation of the City’s police power and other municipal  
27 powers without adequate standards or safeguards.

28

1 **FIRST CAUSE OF ACTION**

2 **Writ of Mandate – Compel Compliance with Non-Discrimination Laws**

3 **(Gov. Code § 65008(d)(1); Code of Civ. Proc. § 1085)**

4 **Against All Respondents**

5 98. Petitioner incorporates by reference herein each and every allegation  
6 contained in the previous paragraphs.

7 99. At all times relevant to this action, Respondents have had clear, mandatory  
8 duties and prohibitions imposed by Government Code section 65008. Those include the  
9 duties and prohibitions of section 65008(d)(1) not to impose different requirements on a  
10 residential development or emergency shelter that is subsidized, financed, insured or  
11 otherwise assisted by the federal or state or by local government entity. The prohibited  
12 discrimination includes the denial or conditioning of a residential development or  
13 emergency shelter based in whole or in part on the fact that the development is subsidized,  
14 financed, insured or otherwise assisted by a local government.

15 100. The City violates this requirement because it has imposed the LOA  
16 requirement solely upon housing developments seeking city subsidies or Low Income  
17 Housing Tax Credits and does not impose this requirement on housing developments not  
18 subsidized by the City or tax credits. Although the LOA is imposed as a pre-condition to  
19 receiving local financing by the City, the LOA has no express or inherent relationship to  
20 the eligibility of the development for local financing, and the imposition of the LOA  
21 operates to deny, delay or condition assisted projects. Councilmembers routinely use the  
22 LOA requirement to delay or block projects, or as leverage to secure changes in proposed  
23 developments and additional public meetings not required by law.

24 101. Petitioner has no plain, speedy, and adequate remedy in the ordinary course  
25 of law.

26 102. Petitioner is beneficially interested in having Respondents comply with all  
27 applicable provisions of law and their legal duties, as set forth herein.

28 103. Wherefore Petitioner prays for relief, as set forth below.

1 **SECOND CAUSE OF ACTION**

2 **Writ of Mandate – Compel Compliance with Non-Discrimination Laws**

3 **(Gov. Code § 65008(b)(1); Code of Civ. Proc. § 1085)**

4 **Against All Respondents**

5 104. Petitioner incorporates by reference herein each and every allegation  
6 contained in the previous paragraphs.

7 105. At all times relevant to this action, Respondents have had clear, mandatory  
8 duties and prohibitions imposed by Government Code section 65008. Those include the  
9 duties and prohibitions of section 65008(b)(1) not to discriminate against a residential  
10 development or emergency shelter because of the method of financing of the development  
11 or because the development or shelter is intended for occupancy by very low, low, or  
12 moderate income persons or households.

13 106. The City violates this requirement because it has imposed the LOA  
14 requirement solely upon supportive housing and affordable housing developments seeking  
15 city financing or Low Income Housing Tax Credits and intended for occupancy by lower  
16 and moderate income households. The requirement acts as a condition of approval of  
17 those developments and is not imposed on other housing developments.

18 107. The acts and omissions of the City alleged herein discriminate against the  
19 development of housing intended for occupancy by persons or households with very-low  
20 and low-incomes in the City of Los Angeles.

21 108. The City knew, or should have known, that its policy would discriminate  
22 against affordable housing and supportive housing for lower-income households. This  
23 discrimination is in direct violation of section 65008(b)(1).

24 109. The City's LOA policy also causes a discriminatory effect against people of  
25 color, individuals with disabilities, and families with children. Homeless and low-income  
26 households are disproportionately members of certain racial and ethnic groups and  
27 individuals with disabilities, and families with children, and therefore the policy  
28 predictably causes a disproportionate and adverse impact on members of these protected

1 classes. This discrimination violates section 65008(b)(1).

2 110. Petitioner has no plain, speedy, and adequate remedy in the ordinary course  
3 of law.

4 111. Petitioner is beneficially interested in having Respondents comply with all  
5 applicable provisions of law and their legal duties, as set forth herein.

6 112. Wherefore Petitioner prays for relief, as set forth below.

7 **THIRD CAUSE OF ACTION**

8 **Writ of Mandate – Compel Compliance with SB 2**

9 **(Gov. Code §§ 65583(a)(4) and 65583(a)(5); Code of Civ. Proc. § 1085)**

10 **Against All Respondents**

11 113. Petitioner incorporates by reference herein each and every allegation  
12 contained in the previous paragraphs.

13 114. At all times relevant to this action, Respondents have had clear, mandatory  
14 duties and prohibitions imposed by California’s Housing Element Law (Government Code  
15 sections 65580- 65589.8). Those duties include compliance with section 65583(a)(5).

16 115. Section 65583(a)(5) mandates that local governments consider supportive  
17 housing to be a residential use of property subject only to those restrictions that apply to  
18 other residential dwellings of the same type in the same zone.

19 116. The City violates this requirement because developers seeking funding for  
20 supportive and affordable housing pursuant to Proposition HHH and/or the Affordable  
21 Housing Managed Pipeline must procure an entirely discretionary LOA which is not  
22 required of other residential developments.

23 117. Petitioner has no plain, speedy, and adequate remedy in the ordinary course  
24 of law.

25 118. Petitioner is beneficially interested in having Respondents comply with all  
26 applicable provisions of the law and their legal duties, as set forth herein.

27 119. Wherefore Petitioner prays for relief, as set forth below.

28



1 **FOURTH CAUSE OF ACTIONS**

2 **Writ of Mandate – Compel Consistency with the City’s Housing Element**  
3 **(Gov. Code § 65587; Code of Civ. Proc. § 1085)**

4 **Against All Respondents**

5 120. Petitioner incorporates by reference herein each and every allegation  
6 contained in the previous paragraphs.

7 121. At all times relevant to this action, Respondents have had clear, mandatory  
8 duties and prohibitions to act consistently with the adopted Housing Element of its General  
9 Plan.

10 122. Objective 2.5 and implementing policy 2.5.2 of the City’s Housing Element  
11 provide that the City will promote equitable distribution of affordable housing  
12 opportunities throughout the city and foster development of new affordable housing units  
13 citywide and within each Community Plan area.

14 123. Objective 4.1 and implementing Policy 4.1.6 of the City’s Housing Element  
15 state that the City will provide an adequate supply of short-term and permanent housing  
16 and supportive services for the homeless throughout the City and reduce zoning and other  
17 regulatory barriers to their placement and operation in appropriate locations.

18 124. The City’s LOA policy is inconsistent with these objectives and policies  
19 because it permits individual city councilmembers to disapprove supportive housing and  
20 affordable housing developments in their geographic districts simply by not issuing the  
21 LOA without any basis for the non-issuance, or to delay or condition such projects in  
22 negotiating the issuance of the LOA. The policy creates a regulatory barrier to the  
23 placement of supportive and affordable housing in appropriate locations throughout the  
24 city.

25 125. Petitioner has no plain, speedy, and adequate remedy in the ordinary course  
26 of law.

27 126. Petitioner is beneficially interested in having Respondents comply with all  
28 applicable provisions of the law and their legal duties, as set forth herein.

1 127. Wherefore Petitioner prays for relief, as set forth below.

2 **FIFTH CAUSE OF ACTION**

3 **Writ of Mandate – Compel Compliance with Los Angeles City Charter, California**  
4 **Constitution, and Principles of Non-Delegation of Police and Municipal Powers**  
5 **(Proposition HHH; City Charter; California Constitution, Article XI, Section 7; Code**  
6 **of Civ. Proc. § 1085)**

7 **Against All Respondents**

8 128. Petitioner incorporates by reference herein each and every allegation  
9 contained in the previous paragraphs.

10 129. At all times relevant to this action, Respondents have had clear, mandatory  
11 duties and prohibitions under Proposition HHH, the City Charter and Article XI, Section 7  
12 of the California Constitution not to delegate the power to deny or authorize expenditure of  
13 City funds or the approval or denial of a development project from the City Council and  
14 the Mayor to an individual city councilmember.

15 130. Under Section 2.7 of the Proposition HHH regulations and Sections 2.7 and  
16 7.3 of the Affordable Housing Managed Pipeline regulations, however, the City staff are  
17 required to automatically reject and may not further consider an application for these funds  
18 if it is not submitted with required letters from the individual councilmember of the  
19 Council District for which the development is proposed. The decision to issue or not issue  
20 the letters is not subject to any standards or safeguards, therefore, is left to the uncontrolled  
21 discretion of the individual city councilmember. The authority delegated to the individual  
22 councilmember is also inconsistent with Proposition HHH regulations and non-delegation  
23 principles generally.

24 131. These policies operate to delegate the legislative and executive power  
25 derived from the police power of the California Constitution to approve or reject an  
26 application for Proposition HHH or Affordable Housing Managed Pipeline funds, and  
27 effectively disapprove a development, from the City Council and the Mayor to the  
28 individual councilmember of the Council District where the project is proposed.

132. The delegation authorized by these requirements is inconsistent with the City

1 Charter and impermissibly limits the City Council’s exercise of its police and municipal  
2 powers.

3 133. Respondents have knowingly violated and continue to violate Proposition  
4 HHH, the City Charter and Article I, Section 7(a) and Article XI, Section 7 of the  
5 California Constitution, and controlling non-delegation principles by continuing to enforce  
6 the LOA policy.

7 134. Petitioner has a beneficial interest in the outcome and is harmed by  
8 Respondents failure to comply with all applicable provisions of law and their legal duties,  
9 as set forth herein.

10 135. Wherefore Petitioner prays for relief, as set forth below.

11 **SIXTH CAUSE OF ACTION**

12 **Violation of State Equal Protection Guarantees**

13 **(California Constitution, Article I, Section 7(a) & Article IV, Section 16(a); Cal. Civ.  
14 Proc. Code §§ 526, 526a))**

15 **Against All Defendants**

16 136. Plaintiff incorporates by reference herein each and every allegation contained  
17 in the previous paragraphs.

18 137. Under Article I, Section 7(a) and Article IV, Section 16(a) of the California  
19 Constitution, Defendants are required to ensure that homeless and low-income individuals  
20 in the City of Los Angeles receive the equal protection of the laws. This requires  
21 Defendants to ensure that supportive and affordable housing for homeless and low-income  
22 individuals is not treated differently than housing for other individuals, and that housing  
23 development decisions are not made on the basis of animus against the homeless or against  
24 the protected classes who are disproportionately homeless, such as persons of color and  
25 persons with disabilities.

26 138. Defendants have knowingly violated and continue to violate the rights of  
27 Plaintiff to receive equal protection of the laws, pursuant to Article I, Section 7(a) and  
28 Article IV, Section 16(a) of the California Constitution by failing to provide them with

1 basic housing opportunities equal to those that other individuals in the City receive.

2 139. Plaintiff has no plain, speedy, and adequate remedy in the ordinary course of  
3 law.

4 140. Plaintiff is harmed by Defendants failure to comply with all applicable  
5 provisions of law and their legal duties, as set forth herein.

6 141. Unless enjoined, Defendants will continue to violate the right to receive  
7 protection of the laws under the California Constitution, and Plaintiff will suffer  
8 irreparable harm.

9 142. Wherefore Plaintiff prays for relief, as set forth below.

10 **SEVENTH CAUSE OF ACTION**

11 **Violation of California Fair Employment and Housing Act**  
12 **(Cal. Gov. Code § 12900 *et seq.*, Cal. Civ. Proc. Code §§ 526, 526a)**

13 **Against All Defendants**

14 143. Plaintiff incorporates by reference herein each and every allegation contained  
15 in the previous paragraphs.

16 144. Under Government Code section 12955(k) of the California Fair  
17 Employment and Housing Act, it is unlawful for Defendants “to otherwise make  
18 unavailable or deny a dwelling based on discrimination” because of race, color, or  
19 disability. The City’s acts and omissions, as alleged, discriminate based on race and  
20 disability in that they result in the denial of housing opportunities available to these  
21 protected classes, and in their exclusion from and/or segregation within Los Angeles.

22 145. The City enacted an LOA policy that enables individual members of the City  
23 Council to refuse to make available supportive and affordable housing, acting with  
24 knowledge that members of protected classes are disproportionately homeless and low-  
25 income and in need of such housing.

26 146. The City’s LOA policy also causes a discriminatory effect. Homeless and  
27 low-income households are disproportionately members of certain racial and ethnic groups  
28 and individuals with disabilities, and families with children, and therefore the policy

1 predictably causes a disproportionate and adverse impact on members of these protected  
2 classes.

3 147. Plaintiff has no plain, speedy, and adequate remedy in the ordinary course of  
4 law.

5 148. Plaintiff is harmed by Defendants failure to comply with all applicable  
6 provisions of law and their legal duties, as set forth herein.

7 149. Unless enjoined, Defendants will continue to violate the right to receive  
8 protection of the laws under the California Fair Employment and Housing Act, and  
9 Plaintiff will suffer irreparable harm.

10 150. Wherefore Plaintiff prays for relief, as set forth below.

11 **REQUEST FOR RELIEF**

12 WHEREFORE, Petitioner and Plaintiff prays for relief as follows:

13 149. For a declaration that the LOA policy in both the Proposition HHH  
14 regulations and the Affordable Housing Managed Pipeline regulations, and any other  
15 mechanism, policy, or practice, including the Letter of Support, that allows an individual  
16 councilmember to veto project funding, is illegal and in conflict with the California  
17 Constitution and state housing laws;

18 150. For a peremptory writ of mandate commanding Respondents to cease  
19 discriminating against subsidized housing;

20 151. For a peremptory writ of mandate commanding Respondents to vacate and  
21 set aside the LOA policy in both the Proposition HHH regulations and the Affordable  
22 Housing Managed Pipeline regulations, the Letter of Support policy in the Affordable  
23 Housing Managed Pipeline regulations, and any and all other mechanisms, policies, or  
24 practices that allow individual councilmembers to veto project funding;

25 152. For an order enjoining the City from requiring an LOA, Letter of Support, or  
26 any other mechanism, policy, or practice that allows an individual councilmember to veto  
27 project funding for any subsidized housing project;

28 153. For the Court to maintain continuing jurisdiction over this matter until

1 Respondents have fully complied with the Court's order;

2 154. An award to Petitioner of reasonable attorney's fees and costs of suit; and

3 155. Such other and further relief as the Court deems just and proper.

4 DATED: July 25, 2018

Respectfully submitted,

ROSEN BIEN GALVAN & GRUNFELD LLP

6  
7 By:   
8 Jeffrey L. Bornstein

9  
10 Attorneys for Petitioner/Plaintiff  
11 ALLIANCE OF CALIFORNIANS FOR  
COMMUNITY EMPOWERMENT (ACCE ACTION)

12 DATED: July 25, 2018

Respectfully submitted,

PUBLIC COUNSEL


14  
15 By:   
16 Shashi Hanuman

17  
18 Attorneys for Petitioner/Plaintiff  
19 ALLIANCE OF CALIFORNIANS FOR  
COMMUNITY EMPOWERMENT (ACCE ACTION)

20 DATED: July 25, 2018

Respectfully submitted,

PUBLIC INTEREST LAW PROJECT

23  
24 By:   
Michael Rawson

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26 Attorneys for Petitioner/Plaintiff  
27 ALLIANCE OF CALIFORNIANS FOR  
28 COMMUNITY EMPOWERMENT (ACCE ACTION)

1 **VERIFICATION OF ALLIANCE OF CALIFORNIANS**  
2 **FOR COMMUNITY EMPOWERMENT (ACCE ACTION)**

3 I, Amy Schur, declare:

4 I am the Campaign Director of ALLIANCE OF CALIFORNIANS FOR  
5 COMMUNITY EMPOWERMENT (ACCE ACTION), a 501(c)(4) organization,  
6 Petitioner and Plaintiff in this action. I am a resident of the County of Los Angeles,  
7 California. I have read the foregoing Petition for Writ of Mandate and Complaint for  
8 Injunctive and Declaratory Relief, and all Exhibits attached thereto, and know the contents  
9 thereof. The facts alleged in the petition are true and correct to the best of my knowledge  
10 and belief.

11 I declare under penalty of perjury under the laws of the State of California that the  
12 foregoing is true and correct and that this verification is executed this 25 day of July, 2018,  
13 at Los Angeles, California.

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16 \_\_\_\_\_  
17 Amy Schur

18 ALLIANCE OF CALIFORNIANS FOR  
19 COMMUNITY EMPOWERMENT  
20 (ACCE ACTION)  
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