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10 San Francisco Bay Area Renters Federation,  
11 California Renters Legal Advocacy and  
12 Education Fund, Sonja Trauss, and  
13 Diego Aguilar-Canabal

14 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
15 **COUNTY OF ALAMEDA – UNLIMITED CIVIL JURISDICTION**

16 SAN FRANCISCO BAY AREA RENTERS  
17 FEDERATION, CALIFORNIA RENTERS  
18 LEGAL ADVOCACY AND EDUCATION  
19 FUND, SONJA TRAUSS, and DIEGO  
20 AGUILAR-CANABAL,

21 Petitioners,

22 vs.

23 BERKELEY CITY COUNCIL, CITY OF  
24 BERKELEY, a municipal corporation, and  
25 DOES 1-25,

26 Respondents.

27 BARAN STUDIO ARCHITECTURE, a  
28 California corporation, and CS  
DEVELOPMENT & CONSTRUCTION INC,  
a California corporation,

Real Parties in Interest.

Case No.:

**PETITION FOR WRIT OF  
ADMINISTRATIVE MANDAMUS**

(C.C.P. §1094.5; C.C.P. §§1085 & 1060;  
C.C.P. §1021.5; Govt. Code § 65589.5)

Petitioners San Francisco Bay Area Renters Federation, California Renters Legal  
Advocacy and Education Fund, Sonja Trauss, and Diego Aguilar-Canabal (“Petitioners”) allege  
as follows:

1           1.       Petitioner San Francisco Bay Area Renters Federation is an unincorporated  
2 association of renters whose mission includes advocating for the production of housing to meet  
3 the needs of California residents, including in Berkeley, through California’s Housing  
4 Accountability Act, Government Code § 65589.5 et seq. (“HAA” or “the Act”). Its members are  
5 residents of the State of California. Its membership cuts across socioeconomic lines, including  
6 members with very low, low, moderate, and middle incomes. San Francisco Bay Area Renters  
7 Federation has a direct and substantial interest in ensuring that the City comply with state laws  
8 requiring that the City do its fair share to address the housing needs of California citizens and  
9 workers. San Francisco Bay Area Renters Federation actively supports housing development  
10 projects and opposes efforts to disapprove or reduce the density of housing development  
11 projects. San Francisco Bay Area Renters Federation acts on behalf of its members, though its  
12 actions benefit all similarly situated renters and intended renters. Members of the San Francisco  
13 Bay Area Renters Federation were, are, will be, and would be eligible to apply for residency in  
14 the Project. As potential residents of the Project, members of the San Francisco Bay Area  
15 Renters Federation are affected by the City’s actions challenged herein. The San Francisco Bay  
16 Area Renters Federation has a substantial interest in ensuring that the City’s decisions are in  
17 conformity with the requirements of law, and in having those requirements properly executed  
18 and the public duties of the City enforced. Its members, as well as the general public, will be  
19 adversely affected by impacts resulting from the acts described herein and are aggrieved by the  
20 acts, decisions, and omissions of the City as alleged in this Petition. The San Francisco Bay Area  
21 Renters Federation is suing on its behalf, on behalf of its members, and on behalf of others who  
22 will be affected by the City’s acts, as well as all citizens and potential applicants and residents of  
23 the Project.

24           2.       Petitioner California Renters Legal Advocacy and Education Fund (“CaRLA”) is  
25 a California nonprofit corporation founded, in part, to advocate for and to ensure compliance  
26 with the HAA and to educate interested persons, including local governments and developers,  
27 about the Act. Participating in, and supporting, litigation of wrongful denials of housing projects  
28 is an important aspect of CaRLA’s mission and is necessary to increase compliance with the Act.

1           3.       Petitioner Sonja Trauss is a natural person and a resident of the State of  
2 California. She was, is, will be, and “would be eligible to apply for residency in the  
3 development” Project. As a potential resident of the Project, Sonja Trauss is affected by the City  
4 of Berkeley’s actions challenged herein. She has a substantial interest in ensuring that the City  
5 of Berkeley’s decisions are in conformity with the requirements of law, and in having those  
6 requirements properly executed and the public duties of the City enforced.

7           4.       Petitioner Diego Aguilar-Canabal is a natural person and a resident of the City of  
8 Berkeley and the State of California. He was, is, will be, and “would be eligible to apply for  
9 residency in the development” Project. As a potential resident of the Project, Diego Aguilar-  
10 Canabal is affected by the City of Berkeley’s actions challenged herein. He has a substantial  
11 interest in ensuring that the City of Berkeley’s decisions are in conformity with the requirements  
12 of law, and in having those requirements properly executed and the public duties of the City  
13 enforced.

14           5.       Respondent City of Berkeley (“Berkeley”) is a California municipal corporation  
15 located within the County of Alameda.

16           6.       Respondent Berkeley City Council (“City Council”) is the legislative governing  
17 body of the City of Berkeley. It is also the administrative agency whose decision is being  
18 reviewed in this action.

19           7.       Real Party in Interest Baran Studio Architecture is the project applicant for Use  
20 Permit No. ZP2015-0087.

21           8.       Real Party in Interest CS Development & Construction Inc. is the owner of the  
22 real property commonly known as 1310 Haskell Street, Berkeley, California (“1310 Haskell  
23 Street”).

24           9.       This litigation concerns 1310 Haskell Street. At all relevant times, 1310 Haskell  
25 Street has comprised a single residential unit.

26           10.      The owner of 1310 Haskell Street desired to demolish it and construct three new  
27 two-story dwellings (the “Project”).  
28

1           11.     The Project constitutes a “housing development project” under California’s  
2 Housing Accountability Act (Govt. Code § 65589.5 *et seq.*).

3           12.     The Project was initially submitted to Berkeley for review and processing on  
4 April 8, 2015.

5           13.     The Project was approved by the Zoning Adjustment Board (“ZAB”) on March  
6 10, 2016.

7           14.     The ZAB determined that the Project complies with the R-2A development  
8 standards applicable to 1310 Haskell Street.

9           15.     The ZAB determined that the Project would not be detrimental to neighboring  
10 properties.

11           16.     The Project complied with all applicable, objective general plan and zoning  
12 standards and criteria, including design review standards, in effect at the time that the housing  
13 development project’s application was determined to be complete prior to ZAB approval.

14           17.     The ZAB issued Use Permit No. ZP2015-0087, authorizing the Project.

15           18.     Several neighbors, hostile to the Project, appealed the approval and the Use  
16 Permit to the City Council. On July 12, 2016, the City Council voted 5 ayes to 0 noes to 4  
17 abstentions to adopt Resolution No. 67,612-N.S. denying Use Permit No. ZP2015-0087. This  
18 quashed the Project.

19           19.     The City Council violated the Housing Accountability Act.

20           20.     The City Council did not base its decision regarding the proposed housing  
21 development project (i.e., quashing the Project by adopting Resolution No. 67,612-N.S.) upon  
22 written findings supported by substantial evidence on the record that both of the following  
23 conditions exist:

24           (1) The housing development project would have a specific, adverse impact upon the  
25 public health or safety unless the project is disapproved or approved upon the condition that the  
26 project be developed at a lower density.

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28

1 (2) There is no feasible method to satisfactorily mitigate or avoid the adverse impact  
2 identified pursuant to paragraph (1), other than the disapproval of the housing development  
3 project or the approval of the project upon the condition that it be developed at a lower density.

4 21. The City Council reached its decision primarily, if not solely, because of the  
5 pressure protesters put on it.

6 22. The City Council could not have satisfied both of the conditions identified above  
7 because the facts were otherwise.

8 23. The City Council could not lawfully disapprove the Project because the City  
9 Council could not comply with Gov't Code § 65589.5(j).

10 24. This petition raises an issue of great, and broad, public importance in that  
11 Berkeley violated the HAA during a time when the San Francisco Bay Area, and Berkeley  
12 specifically, are experiencing a significant housing crisis including an undersupply of housing of  
13 all types and affordability levels.

14 25. Petitioner is entitled to relief by administrative mandamus to quash the appeal  
15 adopting Resolution No. 67,612-N.S.

16 WHEREFORE: Petitioner prays for relief as follows:

- 17 1. For an order overturning the City Council's vote adopting Resolution No. 67,612-  
18 N.S.;
- 19 2. For an order denying the appeal of the ZAB's approval of the Project;
- 20 3. For costs as allowed by law, including attorney's fees under CCP § 1021.5; and
- 21 4. For such other and further relief as the Court deems warranted based on the facts  
22 established at trial.

23 Date: October 7, 2016

ZACKS, FREEDMAN & PATTERSON, PC

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26 By: \_\_\_\_\_  
27 Ryan J. Patterson  
28 Attorneys for Petitioners San Francisco Bay  
Area Renters Federation, California Renters  
Legal Advocacy and Education Fund, Sonja  
Trauss, and Diego Aguilar-Canabal

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**VERIFICATION**

I, Sonja Trauss, declare as follows:

a. I am a natural person and a resident of the State of California. I am a petitioner, the Founder of the San Francisco Bay Area Renters Federation, and the Secretary of the California Renters Legal Advocacy and Education Fund, and I am authorized to verify this Petition for Writ of Administrative Mandamus on behalf of these entities.

b. I have read the foregoing Petition for Writ of Administrative Mandamus and know its contents. The matters stated in the Petition for Writ of Administrative Mandamus are true based on my own knowledge, except as to those matters stated on information and belief, and as to those matters I believe them to be true.

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

Executed on October 7, 2016

\_\_\_\_\_  
Sonja Trauss