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8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 FOR THE COUNTY OF SAN FRANCISCO

10
11 Laguna Beach Historic
12 Preservation Coalition,
13 an unincorporated association;
14 Preserve Orange County, a
15 California non-profit public benefit
16 corporation; and Village Laguna, a
17 California non-profit corporation;

18 Petitioners;

19 v.

20
21 California Coastal Commission;

22 Respondent.

23 _____ /
24
25 City of Laguna Beach and City of
26 Laguna Beach City Council;

27 Real Parties in Interest.
28 _____ /

Case No.

Petition for Writ of Mandamus

[CEQA Case]

Petitioners allege:

Introduction

1. Public-interest groups Laguna Beach Historic Preservation Coalition, Preserve Orange County, and Village Laguna bring this mandamus action. They challenge the California Coastal Commission’s approvals of Local Coastal Program (LCP) Amendments relative to the Laguna Beach Historic Preservation Program and the Downtown Specific Plan without complying with mandates of environmental law.

Bowing to property-owners’ demands to alter or replace historic buildings with those of ever-greater mass and scale, the LCP amendments decree *owner consent* as a prerequisite to identifying and protecting local historic resources. Such consent is *irrelevant* to historic merit, and now hundreds of City-identified historic resources rich with California character will be newly at risk of substantial alteration or demolition.



The California Environmental Quality Act (CEQA) protects the historic “built” environment to the same extent as the state’s natural resources such as air, water, and forests. Indeed, *as a matter of law* discretionary agency actions that substantially impact

1 historic resources are decreed to have significant environmental impacts that must be
2 reduced or avoided if feasible. (Pub. Resources Code, §§ 21002, 21084.1.) CEQA thus
3 does not allow amendment of the LCP without compliance with CEQA’s substantive
4 mandates to identify, analyze, and adopt feasible mitigation measures and alternatives.
5

6 Here, the Commission approved LCP amendments that would *reduce* historic
7 resource protections via a proposed newly “voluntary” Historic Preservation Program.
8 Absent relief from this Court, consequences would be grave. Property owners with
9 plans to clear valuable coastal lots for new buildings would likely oppose rather than
10 consent to historic status. The lack of such status would jeopardize the unique historic
11 value of existing buildings essential to the protection of Laguna’s community character
12 pursuant to the Coastal Act. Deserving properties would not be identified and owners
13 would not be required to explore options for feasible, cost-effective expansion and
14 restoration of historic homes and downtown buildings. They would instead be
15 remodeled or demolished under the LCP Amendments that facilitate needless,
16 irreversible damage to Laguna’s charming village character and historic legacy.
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19 CEQA is citizen-enforced. The Laguna Beach Historic Preservation Coalition,
20 Preserve Orange County, and Village Laguna therefore seek this Court’s judgment
21 and a peremptory writ. The Commission should be ordered to set aside its approvals
22 of the LCP amendments that implement ill-considered, environmentally impactful
23 revisions to Laguna’s Historic Preservation Program and Downtown Specific Plan.
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1 maintaining and improving livability, diversity, sustainability, and economic vitality.
2 The corporation brings this petition on behalf of others similarly situated too numerous
3 to be named and brought before this Court as petitioners. It objected to the City's and
4 Commission's approvals of LCP amendments and exhausted administrative remedies.
5

6 5. Petitioner Village Laguna is a California non-profit corporation formed in
7 1971. Among its primary goals is the preservation of the unique village character of
8 Laguna Beach, recognizing and celebrating the City's historic and cultural heritage,
9 and preserving the character of the downtown and distinctive neighborhoods that
10 residents and Village Laguna supporters appreciate and enjoy. The corporation brings
11 this petition on behalf of others similarly situated too numerous to be named and
12 brought before this Court. It objected to the City's and the Coastal Commission's
13 approvals of the LCP amendments and exhausted administrative remedies.
14
15

16 6. Respondent California Coastal Commission is a state agency charged to
17 implement the California Coastal Act, with its main office in the City and County of
18 San Francisco. The Commission is a certified regulatory agency under CEQA. (Pub.
19 Resources Code, § 21080.5.) The Commission oversees development and land use in
20 areas designated in the California Coastal Zone. The City lies within the Coastal Zone
21 and land use development is subject to the LCP approved by the Commission.
22

23 7. Real parties in interest City of Laguna Beach and its City Council
24 (collectively, the City) is the governmental body that initiated revisions to its Historic
25 Preservation Program and Downtown Specific Plan. It initially acted as the CEQA lead
26 agency and approved Negative Declarations for its revisions to the Historic
27 Preservation Program and Downtown Specific Plan.
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General Allegations

8. The paragraphs below refer to and rely on information in documents that will be lodged with this Court as part of the record of proceedings.

Environmental Setting

9. The National Park Service recognizes and honors the entirety of Laguna Beach, including its built environment, as the only “Historic American Landscape” in Orange County. As stated in the Historic Resources Element of the General Plan:

A defining feature of Laguna Beach is its variety and number of older homes and buildings. If the positive image of Laguna Beach as a pedestrian community with a unique village atmosphere and significant aesthetic amenities can be maintained, the City will continue to enjoy prosperity and increased property values.

The loss of numerous older buildings due to the escalating coastal real estate market and changes in the housing sizes and styles was the catalyst for the original Historic Resources Element adopted by the City in 1983. The City Council recognized the importance of enacting measures to protect its numerous historic buildings.

Through the Historic Resources Element and the Historic Preservation Ordinance, the City incorporates historic preservation as a major component of its local planning process and recognizes its importance to maintaining the quality of life of its residents, as well as promoting its attraction to visitors.

10. Primary architectural styles that characterize Laguna’s environmental setting are Craftsman (circa 1910-1930), Bungalow (circa 1900-1930), Beach Cottage

1 (circa 1910-1940), Period Revival (circa 1928-1940), Moderne (circa 1930-1940), and
2 Eclectic (circa 1915-1940). Laguna also has a notable trove of Mid-century Modern
3 buildings (circa 1940-1969).

4
5 11. The City’s Heritage Committee has explained that “the streetscape of
6 older Laguna is changing in terms of size, scale, and character of housing ... Escalating
7 land values discourage rehabilitation and encourage demolition of older structures ...
8 changing the density and the character of neighborhoods ... There is a lack of
9 knowledge of compatible rehabilitation techniques and approaches.”
10

11 12. Ann Christoph, landscape architect and former mayor of Laguna Beach,
12 commented to the Coastal Commission regarding the serious problems posed by the
13 proposed subject LCD amendments. "Any developer can build a new cute historical-
14 looking town if they wish, but it will not have genuine historical character. Laguna
15 Beach is one of the few coastal towns that offers this to the public. We are offering
16 beauty and we are offering the experience of history. Without those elements Laguna
17 Beach would be just another stop along the Coast Highway.”
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20 ***Project Descriptions***

21 13. Two LCP Amendments are at issue in this action, proposed by the City.
22 The first is Amendment Request LCP-5-LGB-20-0052-2 to comprehensively update the
23 Downtown Specific Plan and to amend provisions in Sections 25.16.050 and 25.40.010
24 of the City’s Zoning Code. The Downtown Specific Plan contains provisions, design
25 guidelines, land use districts, and development standards specific to downtown
26 historic resources. The second is the revised Historic Preservation Program, embodied
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1 in LCP Amendment 17-0388 “to provide for a local voluntary preservation program.” The
2 Plan is reflected in proposed City Zoning Ordinance Amendment 17-0289.

4 ***Administrative Process for the Downtown Specific Plan LCP Amendment***

5 14. The City initiated an update to its Downtown Specific Plan (DSP) in 2015,
6 and following many public hearings on the controversial Plan approved an ordinance
7 to amend the DSP and Municipal Code in 2020 based on a CEQA Negative Declaration.
8

9 15. In December 2021, the Commission tentatively approved LCP Amendment
10 LCP-5-LGB-20-0052-2 for the DSP with suggested modifications, over the urgent
11 objections of petitioners and other City residents. Following public hearings in January
12 and February 2022, the City Council introduced Ordinance 1667 to incorporate the
13 modifications suggested by the Commission. The resolution approving the
14 modifications states in relevant part that the LCP Amendment “shall take effect” *only*
15 following a determination by the Coastal Commission that the City’s ordinance is
16 consistent with its December action. The City’s resolution also recites that although it
17 approved the ordinance based on a Negative Declaration, it recognizes that the
18 “burden of CEQA compliance” will shift to the Coastal Commission for final approval.
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21 16. In March 2022, the City submitted to the Commission’s Executive Director
22 a resolution adopting a revised LCP amendment to update the DSP and amend its
23 Municipal Code, seeking the Director’s determination as to consistency with the
24 Commission’s suggested DSP modifications. The City’s resolution recited that it “shall
25 become effective at a subsequent Commission meeting when the Commission concurs
26 with the Executive Director’s determination that the City’s adopted modifications are
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1 consistent with the prior Commission action taken and legally adequate.”

2 17. The Commission’s Executive Director made the requested determination
3 of consistency and explained that “*unless* a majority of the Commissioners object ... the
4 certification of City of Laguna Beach Implementation Plan Amendment No. LCP-5-
5 LGB-20-0052-2 *shall become effective* upon the filing of the required Notice of
6 Certification with the Secretary of Resources as provided in Public Resources Code
7 Section 21080.5(d)(2)(E).”

8
9 18. On April 8, 2022, upon its staff’s recommendation to “concur with the
10 Executive Director's determination that the City's action is legally adequate,” the
11 Commission concurred by action taken on its consent calendar, without discussion.
12

13
14 ***Administrative Process for the Preservation Plan LCP Amendment***

15 19. The City’s controversial update of its Historic Preservation Program spans
16 years of public meetings, workshops, and task force meetings involving the public and
17 City boards and commissions.
18

19 20. In October 2018 the City Council directed its staff to proceed with
20 environmental review for a revision to its preservation program that would make the
21 identification and protection of historic resources “voluntary.” The City conducted
22 CEQA analysis for the program/ project including proposed General Plan Amendment
23 19-5414 to the Historic Resources Element, Zoning Ordinance Amendment 17-0289,
24 and Local Coastal Program Amendment 17-0388. The City circulated a Negative
25 Declaration for public comment in January 2020.
26

27
28 21. In late February 2020, the City’s Planning Commission conducted a public

1 hearing and voted to recommend that the City Council adopt the proposed
2 amendments to the Municipal Code based on the Negative Declaration.

3 22. In July 2020, the City Council conducted a public hearing at which the
4 public raised objections to proposed reduced protections to historic resources, as also
5 presented in detailed written comments. The Council adopted the Negative Declaration
6 and introduced Zoning Ordinance Amendment 17-0289. The Ordinance proceeded to a
7 second reading in August 2020. On that date, following an additional public hearing,
8 the Council approved amendments to the Historic Resources Element and amendments
9 to the Laguna Beach Residential Design Guidelines and Local Coastal Program.
10

11 23. The City Council has sole authority to approve amendments to the
12 Historic Resources Element of its General Plan; that Element is not subject to Coastal
13 Commission approval. However, as part of its own discretionary approval, the Council
14 in August 2020 imposed a condition — required neither by statute or regulation — that
15 its Historic Element revisions would “not become effective until and unless the Coastal
16 Commission certifies [Local Coastal Program Amendment] 17-0388.”
17

18 24. Coastal Commission review and consideration proceeded in February 2022
19 for the City Council’s proposed amendments to LCP-5-LGB-20-0051-3. The City’s
20 request included amendments of both the Land Use Plan (LUP) and Implementation
21 Plan (IP) of portions of the City’s certified LCP by incorporating changes contained in
22 City Council Resolution No. 20.055 and reflected in City Council Ordinance No. 1650.
23

24 25. Widely contested changes to the LCP included, *inter alia*, amendments to
25 the LUP and IP to “remove references to the City’s historic inventory in the LUP and to
26 amend provisions in the Laguna Beach Residential Design Guidelines,” including but
27
28

1 not limited to 25.45 addressing Historic Preservation. The proposed LCP amendment
2 would, *inter alia*, (1) redefine the term “Historic Resource,” (2) add ‘owner consent’ as a
3 criterion for eligibility for the local historic register; (3) eliminate references to the City’s
4 1981 Historic Inventory; and (4) update other historic resource procedures.

5
6 26. The Commission agenda report recited that “Should the Commission deny
7 the LCP Amendment, as submitted, but then approve it with suggested modifications,
8 then the City Council may consider accepting the suggested modifications and
9 submitting them by resolution to the Executive Director for a determination that the
10 City’s acceptance is consistent with the Commission’s action. In that scenario, pursuant
11 to Section 13544(c) of Title 14 of the California Code of Regulations, the modified LCP
12 Amendment *will become final* at a subsequent Commission meeting if the Commission
13 concurs with the Executive Director’s Determination that the City’s action in accepting
14 the suggested modifications approved by the Commission for LCP Amendment LCP-5-
15 LGB-20-0051-3 is legally adequate. If the City does not accept the suggested
16 modifications within six months of the Commission’s action, *then the LCP amendment*
17 *remains uncertified and not effective within the coastal zone.*”
18
19

20
21 27. At the February 2022 hearing, the Commission denied the LCP as
22 submitted but suggested modifications. The City adopted the modifications in April
23 2022. However, to date the Executive Director has not yet determined whether the
24 modifications are legally adequate and the Commission has not yet reviewed them.

25
26 28. Petitioners have no plain, speedy, and adequate remedy in the ordinary
27 course of law. Issuance of a peremptory writ is imperative to avoid irreparable harm to
28 Laguna Beach residents and the Laguna Beach Coastal Zone environment via

1 implementation of the Downtown Specific Plan and newly-“voluntary” Historic
2 Preservation Program without compliance with law. The Commission has the capacity
3 to correct its violations of law but has failed and refused to do so.
4

5 **Statement of the Case**

6 29. In the summer of 2020, the City approved the Historic Preservation
7 Program and LCP amendments, along with amendment of the Historic Resources
8 Element of its General Plan, based on a Negative Declaration from CEQA. It did not file
9 a Notice of Determination. Petitioners filed a CEQA action against the City, seeking an
10 EIR for the amendment of the General Plan Historic Resources Element. As the Element
11 is not subject to Commission review it was ripe for legal challenge although the
12 Commission had not yet approved amendments to the LCP. The Historic Element
13 mandamus action is currently pending in Orange County Superior Court in Civil Case
14 No. 30-2021-01178477-CU-TT-CXC. It will be noticed as a related case.
15
16

17 30. The City filed an unsuccessful demurrer in the Orange County case based
18 on the statute of limitations, which was overruled by the Superior Court in 2021. The
19 City then successfully sought a stay due to then-pending actions by the Coastal
20 Commission to approve the LCP amendments. The City’s position was that if the
21 Commission denied the amendments, the case would become moot. Since the
22 Commission instead approved the amendments, the Element case remains pending.
23
24

25 31. As noted above, the Commission took action to deny the Historic
26 Preservation Program/amended LCP but proposed modifications. The City has taken
27 action to respond to the proposed modifications, but the required process for the
28

1 Executive Director to determine the adequacy of the modifications and the
2 Commission's potential concurrence remain pending. On information and belief,
3 petitioners expect those final actions to occur imminently. This petition therefore
4 includes the Commission's LCP amendments for the Historic Preservation Program.
5 If the actions become final, petitioners will seek a stipulation from respondents and
6 real parties or a court order to amend the petition as appropriate for adjudication.
7

8
9 **First Cause of Action**
10 **Violations of the California Environmental Quality Act**
11

12 32. Petitioners incorporate all prior paragraphs as if fully set forth.

13 33. CEQA requires agencies to conduct environmental review before taking
14 actions that may have any significant adverse environmental impacts. The process both
15 informs the public and provides necessary information to allow elected officials and
16 decisionmakers to comply with CEQA's substantive mandate: identification of a
17 project's significant environmental impacts and the adoption of feasible project
18 mitigations and alternatives that can reduce or avoid them.
19

20 34. The Commission abused its discretion and failed to act in the manner
21 required by law in approving the LCP amendments for the Downtown Specific Plan
22 and related ordinances and the LCP amendments for the Historic Preservation
23 Program and related ordinances and resolutions. Violations include approvals of the
24 amendments without adequate identification, analysis, or adoption of feasible
25 mitigation measures and alternatives to comply with CEQA's substantive mandates:
26

27 a. Reduction in existing City protections to historic resources by requiring
28

1 that property-owners must consent to any identification of a resource as eligible for
2 listing in the local historic register or otherwise acknowledged as historic, unmoored
3 from facts and expert evaluation. Owner consent is not a valid criterion for identifying
4 the historic merit or CEQA status of resources subject to discretionary project review.
5

6 b. Narrowing of the definitions of historic resources entitled to protection,
7 resulting, for example, in a reduction of identified historic resources in the downtown
8 from 65 to 27. The City's 1981 Inventory was adopted by City Council resolution in
9 1982 as "the best representatives of historically significant architecture within the City
10 of Laguna Beach." The listed resources have become more, not less, historic over the
11 last forty years. The Commission accepted the City's position, unsupported by law,
12 that the Historic Preservation Program and the Downtown Specific Plan could each
13 delete all protections — even all references — to resources on the Inventory without
14 any possibility of causing adverse environmental impacts. The Commission further
15 accepted the City's incorrect position, unsupported by law or fact, that the
16 Commission's amendments to the LCP by eliminating protections to Inventory
17 resources would "not modify the historic status of any property, therefore no
18 additional CEQA review is required."
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22 d. Elimination of current City requirements for historic assessments of
23 properties before allowing alterations, remodels, or demolitions.

24 e. Elimination of current City protections for resources listed in Appendix F,
25 the State Historic Preservation Officer CHRIS Historic Properties Data File.
26

27 f. Failure to analyze or mitigate aesthetic impacts to scenic vistas and public
28 views of unique and/or architecturally significant vintage or historic structures.

1 g. Reduced incentives that encourage preservation of historic resources in
2 the City's downtown, by reducing parking requirements. Many businesses receive
3 parking incentives to preserve their historic buildings; that incentive would be
4 drastically reduced.

5
6 35. The Commission failed to study the 'whole of the action' and piecemealed
7 review and approval of aspects of the Downtown Specific Plan, relying on still-
8 unapproved LCP amendments for the Historic Preservation Program that would not
9 adequately protect historic resources.

10
11 36. The Commission failed to make findings required by CEQA's statutory
12 and regulatory requirements applicable to the Commission, supported by substantial
13 evidence, including that the LCP amendments for the Historic Preservation Program
14 and Downtown Specific Plan conform with the provisions of CEQA, including the
15 requirement in Public Resources Code section 21080.5(d)(2)(A) that the amended LCP
16 will not be approved or adopted as proposed if there are feasible alternatives or
17 feasible mitigation measures available which would substantially lessen any significant
18 adverse impact which the activity may have on the environment.

19
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21 **Second Cause of Action**
22 **Violations of the California Coastal Act**

23 37. Petitioners incorporate all prior paragraphs as if fully set forth.

24 38. The Commission prejudicially abused its discretion and failed to proceed
25 in the manner required by the California Coastal Act (Pub. Resources Code, § 30000 *et*
26 *seq.*) and the Laguna Beach LCP, *inter alia*, failing to:
27
28

1 a. Consider and protect Laguna Beach under Coastal Act protections of
2 *community character* and the integrity of architectural resources.

3 b. Ensure that new development will “protect special communities . . . that,
4 because of their unique characteristics, are popular visitor destination points for
5 recreational uses.”

6
7 c. Comply with Coastal Act Section 30251 requiring that “new development
8 in highly scenic areas such as those designated in the *California Coastline Preservation*
9 *and Recreation Plan* prepared by the Department of Parks and Recreation and by local
10 government shall be subordinate to the character of its setting.” That Plan notes Laguna
11 Beach as a “picturesque community” and highlights the goal of “Preserving History.”

12
13 d. Avoid reducing protections to 65 historic downtown resources that would
14 be reduced to 27 under the amendments to the DSP and to other such resources that
15 will be jeopardized by parking reductions noted *ante*.

16
17 **WHEREFORE**, petitioners pray:

18
19 1. That the Court issue judgment and a peremptory writ ordering the
20 Commission to set aside approvals relating to the subject LCP Amendments to the
21 Downtown Specific Plan and Historic Preservation Program, requiring that before
22 further consideration of approval the Commission comply with the CEQA and the
23 Coastal Act, including identification and adoption of feasible mitigation measures and
24 alternatives to lessen or avoid environmental impacts, and make all findings required
25 by CEQA and the Coastal Act, supported by substantial evidence;
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1 2. That the Court enjoin all physical actions furthering the amendments to
2 the LCP related to the Historic Preservation Program and Downtown Specific Plan
3 while the petition is pending and after judgment pending compliance with the writ;

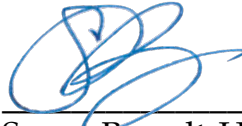
4 3. For petitioners' reasonable costs, expenses, and attorney fees pursuant to
5 Code of Civil Procedure section 1021.5; and
6

7 4. For other and further relief as the Court finds proper.
8

9 June 6, 2022

Respectfully submitted,

10 BRANDT-HAWLEY LAW GROUP

11 

12 _____
13 Susan Brandt-Hawley
14 Attorney for Petitioners

15 **Verification**

16 I, Susan Brandt-Hawley, am an attorney for the petitioners, whose members are
17 located outside of Sonoma County and San Francisco where I have my law offices, and
18 so I verify this petition on their behalf. I have read this petition and know its contents.
19 The matters stated in it are true based on my knowledge, except matters that are stated
20 on information and belief, and as to those matters I believe them to be true.
21
22

23 I declare under penalty of perjury that the above is true to the best of
24 my knowledge and that this verification is executed on June 6, 2022,
25 at Glen Ellen, California.

26 

27 _____
28 Susan Brandt-Hawley

3 **PROOF OF SERVICE**

4 I am a citizen of the United States and a resident of the County of Sonoma. I am
5 over the age of eighteen years and not a party to this action. My business address is
6 P.O. Box 1659, Glen Ellen, California 95442.

7
8 On June 6, 2022, I served one true copy of:

9 **Petition for Writ of Mandamus**

10 _____By placing a true copy enclosed in a sealed envelope with prepaid
11 postage, in the United States mail in Petaluma, California, to the
12 persons listed below.

13 _____By electronic service via OneLegal on counsel as listed below.

14 By emailing a copy as listed below

15 CEQA Coordinator
16 Office of the Attorney General – Environment Section
ceqa@doj.ca.gov

17 I declare under penalty of perjury that the foregoing is true and is executed on
18 June 6, 2022, at Petaluma, California.

19
20 
21 _____
Jeanie Stapleton