

Assigned for all purposes to: Stanley Mosk Courthouse, Judicial Officer: Mitchell Beckloff

1 CALIFORNIANS FOR HOMEOWNERSHIP, INC.  
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10 Californians for Homeownership, Inc.

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12 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
13 **FOR THE COUNTY OF LOS ANGELES**

14 CALIFORNIANS FOR  
15 HOMEOWNERSHIP, INC., a  
16 California nonprofit public benefit  
17 corporation,

18 Petitioner,

19 v.

20 CITY OF SOUTH PASADENA,

21 Respondent.

Case No. 22STCP01161

**VERIFIED PETITION FOR  
WRIT OF MANDATE**

[Gov. Code § 6258; C.C.P. § 1085]

22 Petitioner Californians for Homeownership (“Californians”) alleges as follows:

23 1. California is in the midst of a “housing supply and affordability crisis of  
24 historic proportions.” Gov. Code 65589.5(a)(2).

25 2. The Regional Housing Needs Allocation (“RHNA”) and Housing  
26 Element laws are critical parts of the Legislature’s effort to address this crisis.

27 3. Californians believes that South Pasadena has violated those laws.

28 4. To investigate the City’s conduct, Californians filed a request with the  
City under the California Public Records Act (Gov. Code § 6250 *et seq.*).

5. The City unlawfully withheld records, necessitating this lawsuit.

CALIFORNIANS FOR HOMEOWNERSHIP  
LOS ANGELES, CA

**PARTIES**

1  
2 6. Petitioner Californians for Homeownership, Inc. (“Californians”) is a  
3 California nonprofit public benefit corporation and 501(c)(3) public charity. Its  
4 mission is to address California’s housing crisis through litigation in support of the  
5 production of housing affordable to families at all income levels.

6 7. Respondent City of South Pasadena is a city situated in Los Angeles  
7 County.

**JURISDICTION AND VENUE**

8  
9 8. The Court has general subject matter jurisdiction over this action  
10 pursuant to Government Code Section 6258 and Code of Civil Procedure  
11 Section 1085.

12 9. The Court has personal jurisdiction over the City of South Pasadena  
13 pursuant to Code of Civil Procedure Section 410.10.

14 10. Venue for this action properly lies with this Court pursuant to Code of  
15 Civil Procedure Section 394.

**THE CALIFORNIA PUBLIC RECORDS ACT**

16  
17 11. The California Public Records Act (“CPRA”) is codified at Gov. Code  
18 § 6250 *et seq.* and declares that “access to information concerning the conduct of the  
19 people’s business is a fundamental and necessary right of every person in this state.”  
20 Gov. Code § 6250.

21 12. The CPRA codifies the right found in the California Constitution to  
22 “access to information concerning the conduct of the people's business, and, therefore,  
23 the meetings of public bodies and the writings of public officials and agencies shall be  
24 open to public scrutiny.” Cal. Const. Art. 1, § 3(b)(1). Further, the California  
25 Constitution instructs that the CPRA must “be broadly construed if it furthers the  
26 people’s right of access, and narrowly construed if it limits the right of access.” *See*  
27 Cal. Const. Art. 1, § 3(b)(2).

28 13. Under the CPRA, upon request, any public agency must make publicly

1 available for inspection and copying any record that it prepared, owns, uses, or retains  
2 that is not subject to the CPRA’s statutory exemptions to disclosure. Gov. Code  
3 §§ 6252, 6253.

4 14. Any person may institute proceedings by verified petition for a writ of  
5 mandate to enforce their right to inspect or receive a copy of any public record or  
6 class of public records. Gov. Code §§ 6258, 6259.

7 15. “The court shall decide the case after examining the record in camera, if  
8 permitted by subdivision (b) of Section 915 of the Evidence Code, papers filed by the  
9 parties and any oral argument and additional evidence as the court may allow.” Gov.  
10 Code § 6259(a). “If the court finds that the failure to disclose is not justified, it shall  
11 order the public official to make the record public.” Gov. Code § 6259(b).

12 The court must award court costs and reasonable attorney fees to a prevailing  
13 petitioner, to be paid by the agency from which the petitioner requested the records.  
14 Gov. Code § 6259(d).

15 **FACTS**

16 *California’s Housing Crisis and the RHNA and Housing Element Laws*

17 16. In recent years, the California Legislature has sought to address what it  
18 has described as a “housing supply and affordability crisis of historic proportions.”  
19 Gov. Code 65589.5(a)(2). “The consequences of failing to effectively and  
20 aggressively confront this crisis are hurting millions of Californians, robbing future  
21 generations of the chance to call California home, stifling economic opportunities for  
22 workers and businesses, worsening poverty and homelessness, and undermining the  
23 state’s environmental and climate objectives. While the causes of this crisis are  
24 multiple and complex, the absence of meaningful and effective policy reforms to  
25 significantly enhance the approval and supply of housing affordable to Californians of  
26 all income levels is a key factor.” *Id.* (subdivision numbers omitted).

27 17. As a result of the housing crisis, younger Californians are being denied  
28 the opportunities for housing security and homeownership that were afforded to

1 previous generations. Families across economic strata are being forced to rent rather  
2 than experience the wealth-building benefits of homeownership.<sup>1</sup> Many middle and  
3 lower income families devote more than half of their take-home pay to rent, leaving  
4 little money to pay for transportation, food, healthcare and other necessities.<sup>2</sup> Unable  
5 to set aside money for savings, these families are also at risk of losing their housing in  
6 the event of a personal financial setback. Indeed, housing insecurity in California has  
7 led to a mounting homelessness crisis.<sup>3</sup>

8 18. Beyond the human toll, California’s housing crisis harms the  
9 environment. “[W]hen Californians seeking affordable housing are forced to drive  
10 longer distances to work, an increased amount of greenhouse gases and other  
11 pollutants is released and puts in jeopardy the achievement of the state’s climate  
12 goals.” Gov. Code § 65584.

13 19. At the core of California’s affordable housing crisis is a failure to build  
14 enough housing to meet demand. California’s Legislative Analyst’s Office estimates  
15 that the state should have been building approximately 210,000 units a year in major  
16 metropolitan areas from 1980 to 2010 to meet housing demand. Instead, it built  
17 approximately 120,000 units per year.<sup>4</sup> Today, California ranks 49th out of the 50  
18 states in existing housing units per capita.<sup>5</sup>

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20 <sup>1</sup> California Department of Housing and Community Development, *California’s*  
21 *Housing Future: Challenges and Opportunities: Final Statewide Housing Assessment*  
22 *2025* (2018), available at [http://www.hcd.ca.gov/policy-research/plans-](http://www.hcd.ca.gov/policy-research/plans-reports/docs/SHA_Final_Combined.pdf)  
23 [reports/docs/SHA\\_Final\\_Combined.pdf](http://www.hcd.ca.gov/policy-research/plans-reports/docs/SHA_Final_Combined.pdf), at 18-19.

24 <sup>2</sup> *Id.* at 27.

25 <sup>3</sup> *Id.* at 3, 48-50.

26 <sup>4</sup> Legislative Analyst’s Office, *California’s High Housing Costs: Causes and*  
27 *Consequences* (2015), available at [https://lao.ca.gov/reports/2015/finance/housing-](https://lao.ca.gov/reports/2015/finance/housing-costs/housing-costs.pdf)  
28 [costs/housing-costs.pdf](https://lao.ca.gov/reports/2015/finance/housing-costs/housing-costs.pdf), at 21.

<sup>5</sup> McKinsey & Company, *A Tool Kit to Close California’s Housing Gap: 3.5*  
29 *Million Homes By 2025* (2016), available at [https://www.mckinsey.com/~/media/](https://www.mckinsey.com/~media/mckinsey/featured_insights/Urbanization/Closing_Californias_housing_gap/Closing-Californias-housing-gap-Full-report.ashx)  
30 [mckinsey/featured\\_insights/Urbanization/Closing Californias housing gap/Closing-](https://www.mckinsey.com/~/media/mckinsey/featured_insights/Urbanization/Closing_Californias_housing_gap/Closing-Californias-housing-gap-Full-report.ashx)  
31 [Californias-housing-gap-Full-report.ashx](https://www.mckinsey.com/~/media/mckinsey/featured_insights/Urbanization/Closing_Californias_housing_gap/Closing-Californias-housing-gap-Full-report.ashx), at document page 6.

1           20. California’s housing crisis has been building for decades. The  
2 Legislature has recognized that the crisis is driven, in part, “by activities and policies  
3 of many local governments that limit the approval of housing, increase the cost of  
4 land for housing, and require that high fees and exactions be paid by producers of  
5 housing.” Gov. Code §65589.5(a)(1)(B).

6           21. Over the last five decades, the Legislature has increasingly sought to  
7 address the reluctance of local governments to approve needed housing. The most  
8 important state policy addressing the housing crisis is codified in the Regional  
9 Housing Needs Allocation (“RHNA”) and Housing Element laws.

10          22. Under these laws, each city in the state is required to update the housing  
11 element of its general plan every eight years to make plans sufficient to accommodate  
12 its fair share of the regional need for housing at several different levels of  
13 affordability (the RHNA). Gov. Code §§ 65583, 65583.2, 65584.01, 65584.05,  
14 65588.

15          23. The housing element must provide an inventory of sites available for  
16 residential development and assess the constraints and market realities that affect the  
17 likely development activity at those sites, including local land use regulations. *Id.*

18          24. Localities must make changes to their land use rules, including by  
19 rezoning land, if needed to enable housing sufficient to meet their RHNA goals. Gov.  
20 Code §§ 65583(c), 65583.2(h).

21                           *Californians’ Investigation of the City of South Pasadena*

22          25. Cities and counties in most California regions are currently engaged in  
23 the process of preparing their housing element updates and related rezonings.

24          26. Californians is conducting an ongoing investigation of local compliance  
25 with the RHNA and Housing Element laws during this process. As part of that effort,  
26 it has contacted approximately 50 cities and counties to discuss concerns about their  
27 housing element updates.

28          27. In August 2020, Californians received information that led it to have

1 concerns regarding South Pasadena’s compliance with these laws. Based on publicly  
2 released information, the City was planning to include inappropriate non-vacant sites  
3 on its housing element “sites inventory” and vastly overcount accessory dwelling  
4 units toward meeting its planning obligations.

5 28. On August 9, 2020, Californians sent the City a demand (“the CPRA  
6 Request”) for, among other things, records specifically related to the sites analysis  
7 process for the City’s housing element update. The CPRA Request is attached to this  
8 Petition as Exhibit A.

9 29. In response to Californians’ demand for records, the City sent a series of  
10 three extension letters but did not respond by the promised extended deadline, nor did  
11 it respond to two attempts by Californians to follow up.

12 30. On December 16, 2020, after a third communication from Californians,  
13 the City provided its formal response to the CPRA Request. In its response, the City  
14 disclosed a small number of records and withheld many others.

15 31. From December 2020 through May 2021, counsel for Californians  
16 engaged in an extended discussion with counsel for the City regarding the withheld  
17 documents.

18 32. On May 8, 2021 and May 19, 2021, Californians wrote to the City  
19 Council of South Pasadena to demand that the City disclose the remaining withheld  
20 documents or provide an adequate explanation for the decision to withhold them, or  
21 Californians would sue the City. The City did not adequately respond.

22 *Inadequacy of City of South Pasadena’s Response*

23 33. The City’s responses to Californians’ CPRA requests were inadequate.

24 34. As to Californians’ request for records related to the City’s permitting of  
25 accessory dwelling units, the City contends that searching for the remaining records is  
26 overly burdensome and that the City cannot identify ADUs it permitted from 2014  
27 through 2016. But the City itself is relying on its ADU permitting during this period  
28 to justify aspects of its draft housing element, and cannot claim that it does not have

1 access to that information for a different purpose. And this straightforward request  
2 comes nowhere near meeting the standard for withholding documents based on  
3 burden under the CPRA.

4 35. As for the remaining requests, the City generally cited the draft and  
5 deliberative process privileges, but the City did not specifically identify the public  
6 interest it is seeking to protect by withholding documents or explain why that interest  
7 outweighs the public interest in disclosure of the documents. *Citizens for Open Govt.*  
8 *v. City of Lodi*, 205 Cal. App. 4th 296, 307 (2012). And the City ignored  
9 Californians' request for such an explanation.

10 36. The City's position also attempts to sweep far too much into the ambit of  
11 these privileges because it is essentially withholding all records about the  
12 development of its housing element other than the documents it has specifically  
13 chosen to make public through publication. If accepted, this position would gut the  
14 CPRA by giving the City free reign to decide which documents to disclose, and when  
15 to disclose them. The purpose of the CPRA is to provide the public access to a broad  
16 swath of public agency documents, not merely to give the public an additional route  
17 to obtain documents that agencies have already decided to publish.

18 **FIRST CAUSE OF ACTION**

19 **Writ of Mandate to Compel Production of Records**  
20 **(Gov. Code § 6258; C.C.P. § 1085)**

21 37. Californians incorporates and realleges all of the foregoing paragraphs.

22 38. Under the CPRA, Californians has a right to inspect, and South Pasadena  
23 has a duty to provide, public records subject to disclosure.

24 39. Californians submitted a valid request for records under the CPRA on  
25 August 9, 2020, in the form of the CPRA Request.

26 40. South Pasadena wrongfully withheld records responsive to Californians'  
27 request.

28 41. South Pasadena cannot demonstrate that any record subject to

1 Californians’ requests, or any portion of those records, is exempt under express  
2 provisions of the CPRA or any other authority, or that on the facts of this particular  
3 case the public interest served by not disclosing the record clearly outweighs the  
4 public interest served by disclosing the record.

5 42. Californians is therefore entitled to production of the records.

6 **PRAYER**

7 WHEREFORE, Petitioner prays for relief as follows:

8 1. A peremptory writ of mandate requiring the City of South Pasadena to  
9 provide Californians with all records requested in the CPRA Request;

10 2. Attorneys’ fees as allowed by law, including under Government Code  
11 Section 6259(d) and Code of Civil Procedure Section 1021.5; and

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

13  
14 Dated: March 30, 2022

Respectfully Submitted,  
CALIFORNIANS FOR HOMEOWNERSHIP, INC.

17  
18 By  \_\_\_\_\_  
Matthew P. Gelfand

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20 Attorneys for Petitioner,  
Californians for Homeownership, Inc.



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**VERIFICATION**

I, Matthew P. Gelfand, declare:

1. I hold the position of Counsel at Petitioner Californians for Homeownership, Inc., and am familiar with the matters discussed in the foregoing Petition.

2. I have read the Petition and know the contents thereof. The statements of fact therein are true and correct of my own knowledge.

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

Executed on March 30, 2022 at Los Angeles, California.



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Matthew P. Gelfand

# EXHIBIT A



August 9, 2020

**VIA EMAIL**

City of South Pasadena  
City Clerk's Office  
1414 Mission Street  
South Pasadena, CA 91030  
Email: [cityclerk@southpasadenaca.gov](mailto:cityclerk@southpasadenaca.gov)

RE: *Request for public records regarding ADUs and RHNA Site Analysis.*

To the City Clerk's Office:

Pursuant to the California Public Records Act (Gov. Code § 6250 *et seq.*), I am writing on behalf of Californians for Homeownership to request a copy of the records detailed below. We are examining local compliance with California's laws regarding accessory dwelling units (ADUs) and Housing Elements. To that end, we request the following records:

**1. Application records for ADUs:**

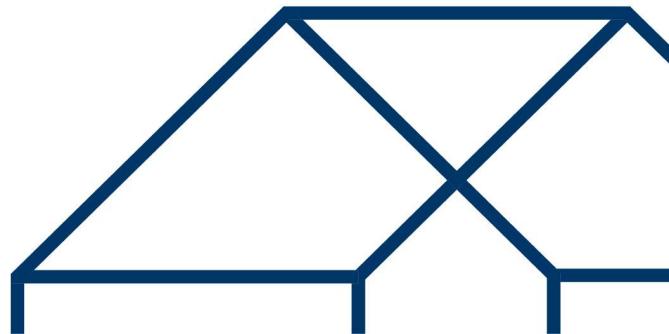
The complete records concerning any application to develop an ADU, from January 1, 2014 until the present. "Application" is intended to carry its broadest possible definition, including a formal permit application filed with any City department, a "pre-application" or similar initial assessment, or any inquiry regarding the permissibility of an ADU at a particular location or given particular facts. This request includes the application itself, as well as every document or communication related to the application in any way, including without limitation all communications with the applicant or its representative, all internal communications, any analysis of the application, any interim or final determination regarding the application, and any database entry containing information about the application.

**2. Sixth RHNA Cycle Housing Element Sites Analysis Documents:**

All documents and communications regarding any aspect of the sites analysis process for City's 2021 Housing Element update, which is being prepared in connection with its Sixth Cycle Regional Housing Needs Allocation (RHNA) obligations. This includes, without limitation, any document or communication related to the City's plan to use ADUs to meet a portion of its RHNA obligations.

**3. PlaceWorks Documents:**

All documents and communications in the possession of PlaceWorks that constitute work product performed for the City, are in the City's constructive possession, or



otherwise are subject to the City's obligations under the Public Records Act for any reason.<sup>1</sup>

We specifically demand that these requests be treated independently and that documents be provided as soon as they are available, without any delay related to the City's search for additional documents. These requests are intended to cover all forms of electronic communication, including emails, text messages, and communications using social media (e.g. Facebook posts and messages, discussion threads on Nextdoor, and the like). This includes communications by a public official using a "personal" account, if the official uses the account to communicate about the subject matter of the requested records, which by their nature implicate the official's work for the City.

This request applies to all records that the City is required to provide under the Public Records Act. Please provide entire documents, even if only parts of them are responsive to this request. If any portion of a document is exempt from disclosure, please narrowly redact that portion and provide the redacted document. If an entire document needs to be withheld because there is no non-exempt portion, please provide a log with a detailed description of the document, including the author, the subject matter, and any individuals who received it.

To the extent that you maintain records in electronic format, please provide them in that same format to avoid copying costs. If you are unable to reproduce electronic records in electronic form, please provide an explanation. For the same reason, please scan documents into an electronic format rather than copying them, if you have access to equipment capable of doing so. If any information responsive to this request is contained in an electronic database, you may respond by providing a copy of the database or remote access to the database, with sufficient information to allow us to identify and access the responsive records using ordinary computer software.

We request that you waive copying fees because we have limited resources and the requested information will be used in the public interest. None of the information obtained will be sold or distributed for profit. If you are unable to waive the copying fees and you anticipate that these costs will exceed \$50, or if you determine that the time needed to collect the records will delay their release, please contact us so that we can arrange to inspect the documents or decide which documents we wish to receive. Otherwise, please send them as soon as possible. By this letter, Californians for Homeownership is agreeing to pay for up to \$50 in properly substantiated costs payable under the Public Records Act.

Please respond to this request within ten days, either by providing all of the requested records or by providing a smaller set of records accompanied by a written response setting forth the legal authority for withholding or redacting any document and stating when any remaining documents will be made available. If you require any clarification in identifying responsive documents or focusing this request, please contact me at [matt@caforhomes.org](mailto:matt@caforhomes.org).

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<sup>1</sup> See <https://cacities.org/Resources/Open-Government/THE-PEOPLE'S-BUSINESS-A-Guide-to-the-California-Pu.aspx> at 12.

August 9, 2020  
Page 3

Please send records responsive to this request directly to me using the contact information above. We can accept documents in hardcopy format, on physical data media sent by mail, by email, or through an electronic transfer. We are happy to arrange an FTP site for your use to transfer large files.

I look forward to receiving your response by August 20, 2020.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Matthew Gelfand', with a stylized, cursive script.

Matthew Gelfand