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Attorney for Plaintiff and Petitioner
CHOLLAS VALLEY COMMUNITY
PLANNING GROUP

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN DIEGO – CENTRAL DIVISION

CHOLLAS VALLEY COMMUNITY
PLANNING GROUP, a Community
Planning Group,

Plaintiff and Petitioner,

v.

CITY OF SAN DIEGO, and DOES ONE
through TEN, inclusive,

Defendants and Respondents.

KLAUBER DEVELOPMENT CORP., and
DOES ELEVEN through TWENTY,
inclusive,

Real Party in Interest.

Case No.:

**VERIFIED PETITION AND
COMPLAINT FOR:**

- 1. Writ of Mandate Pursuant to CEQA**
- 2. Declaratory and Injunctive Relief**
- 3. Writ of Mandate Pursuant to Code
of Civil Procedure § 1094.5**
- 4. Declaratory and Injunctive Relief**
- 5. Writ of Mandate Pursuant to Code
of Civil Procedure § 1094.5**
- 6. Declaratory and Injunctive Relief**

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I.

INTRODUCTION

1. Petitioner and Plaintiff Chollas Valley Community Planning Group (“CVCPG”) brings this action to set aside the City of San Diego’s approvals for a subdivision and related permits to Subdivide four (4) existing lots into twenty-five (25) lots for the construction of twenty-three (23) single dwelling units, a privately-owned and maintained dog park, and two private drives located on a 5.66-acre site at 1362 Klauber Avenue in the Residential-Single (RS-1-2) zone and the Encanto Neighborhoods Community Plan area (the “Klauber Project”).

2. City Council approved the Klauber Project on or about July 15, 2025, while invoking a California Environmental Quality Act (“CEQA”) exemption pursuant to CEQA Guidelines § 15183 (Consistency with a Community Plan or Zoning) to exempt the Klauber Project from further environmental review. City further asserted a “vesting” theory to preserve now-repealed or otherwise inapplicable provisions of the Zoning Code to the Klauber Project in order to unlawfully declare the exemption.

3. The exemption of CEQA Guidelines §15183 is only applicable where the project is “consistent with the development density established by existing zoning, community plan, or general plan policies for which an EIR was certified. . .” Here, the exemption does not apply because the Klauber Project is not consistent with the applicable RS-1-2 zoning in effect at the time of City’s CEQA exemption, and this inconsistency undermines any claim that the Klauber Project’s impacts were previously analyzed in the 2015 Encanto Neighborhoods Community Plan EIR (“Encanto PEIR”).

4. Further, the requirements of Government Code § 66474 required that City deny the tentative map approval for the Klauber Project and City has failed to comply with the Steep Hillside Zone regulations and applicable special findings required for environmentally sensitive lands for the approvals..

5. CVCPG seeks one or more writs of mandate: (1) setting aside approvals and any associated CEQA determinations; (2) directing the City to prepare proper project-level CEQA review; and (3) prohibiting the City from misapplying any “vesting” theory that allows unlawful standards to

1 control or that prevents application of standards necessary to avoid or substantially lessen CEQA
2 impacts.

3 6. CVCPG further seeks declaratory and injunctive relief to declare City's approvals
4 unlawful and in violation of CEQA, and to enjoin and prohibit any activity in furtherance of the Klauber
5 Project.

6 7. CVCPG seeks costs and attorneys' fees under Code of Civil Procedure § 1021.5 for
7 bringing this action on behalf of the residents of Encanto in and around the Klauber Project site, the
8 residents within the City of San Diego, and for the public benefit.

9 II.

10 GENERAL ALLEGATIONS

11 8. Petitioner and Plaintiff Chollas Valley Community Planning Group ("CVCPG") is an
12 independent voluntary organization created and operated by community members as an official
13 recognized entity as a community planning group according to City Council Policy 600-24. CVCPG
14 represents the Encanto Neighborhoods Planning Area ("ENPA"), including the Emerald Hills, Chollas
15 View, Lincoln Park, Valencia Park, Alta Vista, O'Farrell, Broadway Heights and Encanto
16 neighborhoods. CVCPG is charged with advising the City on land use-based community goals and
17 development proposals and to provide important feedback to the City about future growth and
18 community needs, including, but not limited to, monitoring and ensuring that laws, including CEQA,
19 that impact the residents within the ENPA are fully and faithfully complied with during the planning,
20 approval, and implementation of development such as the instant Klauber Project.

21 9. Defendant and respondent City of San Diego ("City") is a charter city form of a local
22 public government agency and subdivision of the State of California that is charged with complying
23 with applicable provisions of state law, the general laws of this State, the California Constitution, and
24 the city charter, municipal code, and other regulations of the City of San Diego.

25 10. Real Party in Interest Klauber Development Corp. ("Real Party") is, on information and
26 belief, the applicant and beneficiary of the Klauber Project approvals challenged herein, including the
27 tentative map, site development permit, neighborhood development permit, and related CEQA

1 exemption. Real Party therefore has a direct interest in the validity of the approvals and is a necessary
2 party to this action.

3 11. CVCPG is ignorant of the true names and capacities of the defendants and respondents
4 sued herein as DOES ONE through TEN, inclusive, and therefore sues these defendants and respondents
5 by such fictitious names and CVCPG will amend this Complaint to allege their true names and
6 capacities is and when ascertained. CVCPG also designates all persons unknown claiming any interests
7 or liability in the Klauber Project as DOES TEN through TWENTY and CVCPG will amend this
8 Complaint to allege their true names and capacities is and when ascertained.

9 12. Venue and jurisdiction in this Court are proper pursuant to the California Code of Civil
10 Procedure and Local Rules for a matter relating to subject Klauber Project that is located within, and an
11 administrative action decided within, this Court's geographical venue jurisdiction.

12 13. CVCPG has performed all conditions precedent to filing this action by giving written
13 notice to City on August 18, 2025 pursuant to Public Resources Code section 21167.5 prior to filing this
14 action and exhausting all administrative remedies.

15 III.

16 **ESSENTIAL FACTUAL ALLEGATIONS**

17 14. On January 14, 2025, prior to the hearing and approvals for the Klauber Project, CVCPG
18 submitted a detailed comment letter detailing the reasons that the Klauber Project was not exempt from
19 CEQA and that it was further inconsistent with both the Encanto Plan and General Plan and had a
20 number of deficiencies that preclude subdivision. A copy of CVCPG's comment letter is attached
21 hereto as Exhibit A. Members of CVCPG and the community appeared and provided substantial oral
22 comments opposing the approvals of the Klauber Project, all of which are incorporated herein by
23 reference.

24 15. On July 15, 2025, City approved the Klauber Project, notwithstanding CVCPG and the
25 public's objections.

26 16. City adopted a CEQA Guidelines § 15183 determination, expressly stating that the
27 Project was exempt from further environmental review because it was allegedly "consistent with the

development density established by existing zoning, community plan, or general plan policies” previously analyzed in the Encanto PEIR. City relied on the Encanto PEIR as the prior programmatic EIR, and asserted that the Klauber Project’s density and impacts were within the scope of the Encanto PEIR’s analysis. City concluded that no additional project-level CEQA review was required.

17. As part of its approvals, City determined that the Klauber Project was subject to a minimum lot size of only 5,000 square feet based on former Footnote 7 to San Diego Municipal Code Table 131-04D that was repealed on April 24, 2025.

18. City made this determination even though the RS-1-2 Zone for the Klauber Project site requires a minimum lot size of 20,000 square feet.

19. City premised its CEQA Guidelines § 15183 exemption and its findings of “consistency” on the repealed Footnote 7, rather than the applicable RS-1-2 development standards in effect at the time of City’s July 15, 2025 approvals.

20. City further failed to consider other deficiencies in the Klauber Project that preclude approval of the tentative map or the application of the Steep Hillside Zone regulations.

21. As of the date of this Complaint, CVCPG is informed and believes and thereon alleges that no Notice of Exemption has been filed for the Klauber Project.

IV.

FIRST CAUSE OF ACTION – PETITION FOR WRIT OF MANDATE (CEQA)

(Pub. Resources Code § 21000 et seq.; 14 Cal. Code Regs. § 15000 et seq.)

22. CVCPG realleges and incorporates by reference all paragraphs above and below as if set forth fully herein.

23. City is the decision-making body that approved the Klauber Project. City must comply with CEQA requirements.

24. The Klauber Project qualifies as a “project” subject to CEQA pursuant to Public Resources Code § 21065.

25. The Klauber Project has the potential to cause direct and/or reasonably foreseeable indirect significant impacts to the environment, including mass grading, altered drainage, traffic and air

emissions from construction and operation, visual and community character changes, fire safety, paleontological resources, and consistency with City's General Plan and the Encanto Plan as set forth and incorporated herein from CVCPG's July 14, 2025 comment letter.

26. The Klauber Project may also result in additional direct and reasonably foreseeable indirect significant adverse impacts but CVCPG, members of the public, other agencies, and City decision-makers themselves may not know of them because City has undertaken no study and made no decision about possible environmental impacts arising from the Project. Where no CEQA study and/or determination is made, the duty to identify and disclose potential impacts the City's; not CVCPG's or the public's responsibility.

27. City violated CEQA by adopting a CEQA Guidelines § 15183 exemption even though the Project is not consistent with the development density analyzed in the Encanto PEIR and even though applicable exceptions pursuant to Section 15183, subdivision (b) requires site-specific review.

28. City failed to proceed in the manner required by law by failing to perform an initial study and prepare appropriate environmental review.

29. City additionally erred as a matter of law by relying on an asserted "vesting" theory to invoke the CEQA Guidelines section 15183. City's determination is inconsistent with the holding in the California Supreme Court case *Communities for a Better Environment v. South Coast Air Quality Mgmt. Dist.*, (2010) 48 Cal.4th 310, 324–325, in which the Supreme Court w rejected the argument that existing entitlements excuse environmental analysis.

30. Furthermore, any of City's purported findings and determination are unsupported by substantial evidence, internally inconsistent, and do not bridge the analytic gap between the Encanto PEIR's programmatic study and the Klauber Project's site-specific potentially significant effects. The record shows new or more severe impacts that were not resolved by the Encanto PEIR and that required tiered or project-level environmental review.

31. Since City did not comply with CEQA, CVCPG, the public, and responsible agencies were deprived of meaningful disclosure and participation regarding feasible mitigation measures and project alternatives. CVCPG requests a writ of mandate rescinding City's approvals of the Klauber

1 Project, and that further activity in reliance on those approvals are enjoined unless and until City fully
2 complies with CEQA.

3 V.

4 **SECOND CAUSE OF ACTION – DECLARATORY AND INJUNCTIVE RELIEF**

5 (Code of Civil Procedure § 1060 et seq.)

6 32. CVCPG realleges and incorporates by reference all paragraphs above as though fully set
7 forth herein.

8 33. An actual, present controversy exists between CVCPG and City regarding CEQA
9 compliance for the Project, including but not limited to: (1) whether CEQA Guidelines § 15183 applies
10 to the Project; (2) whether Section 15183, subdivision (b) “exceptions” require project-level analysis for
11 the Klauber Project; (3) whether the City’s CEQA determination and related findings are invalid; and
12 whether further activity in reliance on the approvals must be enjoined unless and until the City fully
13 complies with CEQA.

14 34. CVCPG is beneficially interested in a declaration of the parties’ rights and duties under
15 CEQA and has no plain, speedy, or adequate remedy at law. Declaratory relief is proper to resolve,
16 quiet, and stabilize these disputed jural relations.

17 35. A declaration is necessary and appropriate to confirm that City’ reliance on CEQA
18 Guidelines § 15183 was unlawful and that City must perform site-specific environmental review for the
19 Klauber Project in compliance with CEQA.

20 36. CVCPG requests declaratory judgment that City’ determination of a CEQA exemption
21 for the Klauber Project is invalid and that City must prepare legally adequate CEQA review before
22 approving or implementing the Klauber Project. CVCPG further requests preliminary and permanent
23 injunctive relief enjoining both City and Real Party from any undertaking, authorizing, funding,
24 permitting, or otherwise implementing any aspect of the Klauber Project, until and if City demonstrates
25 full compliance with CEQA and this Court’s orders.

1 VI.

2 **THIRD CAUSE OF ACTION – PETITION FOR WRIT OF MANDATE –**
3 **SUBDIVISION MAP ACT**

4 (Code of Civ. Proc. § 1094.5; Gov. Code § 66474)

5 37. CVCPG realleges and incorporates by reference all prior paragraphs as though fully set
6 forth herein.

7 38. Government Code § 66474 requires that a legislative body deny approval of a tentative
8 map if it makes certain findings, including any of the following:

9 (a) that the proposed map is not consistent with applicable general and specific plans;

10 (b) that the design or improvement of the proposed subdivision is not consistent with
11 applicable general and specific plans;

12 (c) that the site is not physically suitable for the type of development;

13 (d) that the site is not physically suitable for the proposed density of development; or

14 (e) that the design of the subdivision or the proposed improvements are likely to cause
15 substantial environmental damage or substantially and avoidably injure fish or wildlife or
16 their habitat.

17 39. City approved a tentative map for the Klauber Project notwithstanding substantial
18 evidence in the record supporting one or more of the mandatory findings requiring denial.

19 40. As set forth in CVCPG's July 14, 2025 Comment Letter, incorporated by reference
20 herein, and in oral testimony from CVCPG and the public before City Council, the Klauber Project is
21 not consistent with applicable community and general plans, the design and improvements are not
22 consistent with plan requirements, the site is not physically suitable for the subdivision as designed, the
23 proposed density is inconsistent with the surrounding physical setting, and the design and grading are
24 likely to cause substantial environmental damage.

25 41. Since City was required by law to deny the tentative map upon making any one of these
26 findings, its approval of the Klauber Project constitutes a failure to proceed in a manner required by law
27 and a prejudicial abuse of discretion.

42. CVCPG requests issuance of a writ of mandate pursuant to Code of Civil Procedure § 1094.5 setting aside the tentative map and related approvals on the ground that the Project could not lawfully be approved under Government Code § 66474.

VII.

FOURTH CAUSE OF ACTION – DECLARATORY AND INJUNCTIVE RELIEF

(Code Civ. Proc. § 1060 et seq.)

43. CVCPG realleges and incorporates by reference all paragraphs above as though fully set forth herein.

44. An actual, present controversy exists between CVCPG and City regarding the approval of a tentative map for the Klauber Project and the requirements of Government Code § 66474.

45. CVCPG is beneficially interested in a declaration of the parties' rights and duties under the Subdivision Map Act. CVCPG has no plain, speedy, or adequate remedy at law. Declaratory relief is proper to resolve, quiet, and stabilize these disputed legal relations.

46. CVCPG requests declaratory judgment that City's approvals of the Klauber Project were invalid under Government Code § 66474, subdivisions (a)–(e). CVCPG further requests preliminary and permanent injunctive relief enjoining both City and Real Party in Interest from undertaking, authorizing, permitting, funding, or otherwise implementing any aspect of the Klauber Project.

VIII.

FIFTH CAUSE OF ACTION – PETITION FOR WRIT OF MANDATE – STEEP HILLSIDES

(Code Civ. Proc. § 1094.5; San Diego Mun. Code §§ 143.0101 et seq., 143.0142, 126.0505, 126.0404)

47. CVCPG realleges and incorporates by reference all prior paragraphs as though fully set forth herein.

48. The San Diego Municipal Code ("SDMC") includes the Environmentally Sensitive Lands Regulations (SDMC § 143.0101 et seq.), which govern the review and approval of development on environmentally sensitive lands, including "steep hillsides" as defined by SDMC § 143.0142.

49. CVCPG is informed and believes, and thereon alleges, that the Klauber Project site contains areas of steep hillsides, as defined by the SDMC and City guidelines.

50. Development within these areas is subject to the Steep Hillside Regulations, which impose restrictions on grading, require mitigation of slope disturbance, mandate landscaping and revegetation (, and, as an environmentally sensitive lands, require that additional findings be made under the procedures for Site Development Permits pursuant to SDMC § 126.0505, subdivision (b) or Neighborhood Development Permits pursuant to SDMC § 126.0404, subdivision (b).

51. City nevertheless approved the Klauber Project without applying the Steep Hillside Regulations and without making the mandatory findings required by SDMC §§ 126.0505, subdivision (b) and 126.0404, subdivision (b) for development within environmentally sensitive lands.

52. City's failure to apply the Steep Hillside Regulations and to require compliance with the appropriate permit process constitutes a failure to proceed in the manner required by law and an abuse of discretion pursuant to Code of Civil Procedure § 1094.5.

IX.

SIXTH CAUSE OF ACTION – DECLARATORY AND INJUNCTIVE RELIEF – STEEP HILLSIDES

(Code Civ. Proc. § 1060; San Diego Mun. Code §§ 143.0101, 143.0142, 126.0505, 126.0404)

53. CVCPG realleges and incorporates by reference all prior paragraphs as though fully set forth herein.

54. An actual, present controversy exists between CVCPG and City regarding the applicability of the Steep Hillside Regulations (SDMC § 143.0142) to the Klauber Project.

55. CVC PG is beneficially interested in a declaration of the parties' rights and duties under the SDMC and has no plain, speedy, or adequate remedy at law. Declaratory relief is proper to resolve, quiet, and stabilize these disputed legal relations and to prevent further approvals or reliance on approvals that are unlawful.

56. A declaration is necessary and appropriate to confirm that the Klauber Project is subject to the Steep Hillside Regulations, that City was required to apply those regulations and make the necessary findings under SDMC §§ 126.0505, subdivision (b) and 126.0404, subdivision (b), and that City's action was erroneous and an abuse of discretion.

57. CVCPG requests a declaratory judgment that City's approvals of the Klauber Project are invalid because City failed to apply the Steep Hillside Regulations and failed to make the findings required for development on environmentally sensitive lands. CVCPG further requests preliminary and permanent injunctive relief enjoining both City and Real Party in Interest from undertaking, authorizing, permitting, funding, or otherwise implementing any aspect of the Klauber Project.

X.

PRAYER FOR RELIEF

WHEREFORE, plaintiff and petitioner Chollas Valley Community Planning Group prays for judgment against defendant and respondent City of San Diego, and against Real Party in Interest Klauber Development Corp., as follows:

1. For one or more writs of mandate compelling City to rescind any and all approvals of the Klauber Project, including but not limited to the Tentative Map, Site Development Permit, Neighborhood Development Permit, and CEQA exemption determination;

2. For a declaration of law that City failed to comply with CEQA and that its reliance on an exemption pursuant to CEQA Guidelines § 15183 for the Klauber Project was unlawful and invalid;

3. For a declaration of law that City was required to deny the Tentative Map pursuant to Government Code § 66474;

4. For interim, preliminary, and permanent injunctive relief enjoining City and Real Party in Interest from undertaking, authorizing, permitting, funding, or otherwise implementing any aspect of the Klauber Project;

5. For determination of prevailing party status and an award of reasonable attorneys' fees and litigation expenses pursuant to Code of Civil Procedure § 1021.5;

6. For costs of suit; and

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1 7. For such other and further relief as this Court deems just and proper, or otherwise is
2 appropriate and necessary by law or equity for full, partial, or interim relief.

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4 Dated: August 18, 2025

CRAIG A. SHERMAN,
A PROFESSIONAL LAW CORP.

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8 _____
9 CRAIG A. SHERMAN
10 Attorney for Plaintiff and Petitioner
11 CHOLLAS VALLEY COMMUNITY
12 PLANNING GROUP
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XI.

VERIFICATION

I, SAIGE GONZALES WALDING, as the chairperson of the Plaintiff and Petitioner planning group CHOLLAS VALLEY COMMUNITY PLANNING GROUP, hereby verify this *PETITION FOR WRIT OF MANDATE AND COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF* pursuant to Civil Procedure Section 446. The facts herein alleged are true of my own knowledge, except as to the matters which are based on information and belief, which I believe to be true. I declare under the penalty of perjury under the laws of California that the above foregoing is true and correct and that this verification was executed on the below stated date in San Diego County, California.

Dated: August 18, 2025

By: _____



SAIGE GONZALES WALDING

Authorized Chair/Member

CHOLLAS VALLEY COMMUNITY PLANNING GROUP