

**NORTON ROSE FULBRIGHT US LLP**  
JOHN A. O'MALLEY (SBN 101181)  
MICHELLE MELLO (SBN 288081)  
555 South Flower Street  
Forty-First Floor  
Los Angeles, California 90071  
Telephone: (213) 892-9200  
Facsimile: (213) 892-9494  
john.omalley@nortonrosefulbright.com  
michelle.mello@nortonrosefulbright.com

**CALIFORNIA AFFORDABLE HOUSING  
LAW PROJECT, PUBLIC INTEREST  
LAW PROJECT**  
CRAIG CASTELLANET (SBN 176054)  
VALERIE FELDMAN (SBN 210155)  
449 15th Street, Suite 301  
Oakland, California 94612  
Telephone: (510) 891-9794  
Facsimile: (510) 891-9727  
ccastellanet@pilpca.org  
vfeldman@pilpca.org

**PUBLIC LAW CENTER**  
MICHELLE KIM KOTVAL (SBN 293830)  
UGOCHI ANAEBERE-NICHOLSON (SBN 234069)  
KENNETH W. BABCOCK (SBN 100183)  
601 W. Civic Center Drive  
Santa Ana, California 92701  
Telephone: (714) 541-1010  
Facsimile: (714) 541-5157  
mkim@publiclawcenter.org  
unicholson@publiclawcenter.org

Attorneys for Petitioners and Plaintiffs  
THE KENNEDY COMMISSION, KIMBERLY FREEMAN, and SARAH GREEN

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF ORANGE

THE KENNEDY COMMISSION, a non-profit  
corporation; KIMBERLY FREEMAN; and  
SARAH GREEN,

Petitioners and Plaintiffs,

v.

CITY OF GARDEN GROVE, a municipal  
entity; CITY OF GARDEN GROVE as  
Successor Agency to the Garden Grove Agency  
for Community Development, a municipal  
entity; GARDEN GROVE HOUSING  
AUTHORITY as Housing Successor to the  
Garden Grove Agency for Community  
Development, a municipal entity; DOES 1 TO  
100,

Respondents and Defendants.

Case No. 30-2017-00933416-CU-WM-CJC

Judge Geoffrey T. Glass

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

1 **I. INTRODUCTION**

2 1. This action seeks to enforce state affordable housing laws and to ensure that, when  
3 carrying out its taxpayer-funded redevelopment activities, the City of Garden Grove properly uses  
4 funds restricted for low- and moderate-income housing for their intended purpose.

5 2. Petitioners and Plaintiffs THE KENNEDY COMMISSION, KIMBERLY  
6 FREEMAN, and SARAH GREEN (collectively, "Petitioners") bring this action against the City of  
7 Garden Grove in its municipal capacity ("City"); the City of Garden Grove in its capacity as  
8 Successor Agency to the Garden Grove Agency for Community Development ("Successor  
9 Agency"); and the Garden Grove Housing Authority in its capacity as Housing Successor to the  
10 Garden Grove Agency for Community Development ("Housing Authority") (collectively,  
11 "Respondents"). By this action, Petitioners seek to prevent Respondents from using low- and  
12 moderate-income housing funds to promote commercial development. Petitioners also seek an  
13 order requiring Respondents to replace dwellings that have been removed from the community's  
14 lower-income housing market, as mandated by state redevelopment laws.

15 3. On information and belief, at various times during its existence as a municipal  
16 agency of the City, the Garden Grove Agency for Community Development (the "Former  
17 Redevelopment Agency") purchased a total of seventeen (17) properties—twelve (12) single-family  
18 homes and five (5) unimproved parcels in Garden Grove—for use as affordable housing. On  
19 information and belief, the Former Redevelopment Agency used its Low and Moderate Income  
20 Housing Fund ("LMIHF") to fund all of these purchases. From 2007 to 2016, the Former  
21 Redevelopment Agency—subsequently, the Successor Agency—transferred the twelve single-  
22 family homes and three of the five unimproved parcels to the Housing Authority. In turn, on May  
23 10, 2016, by Resolution No. 174-16, the Housing Authority sold the twelve single-family homes to  
24 the City, and by Resolution No. 175-16, the Housing Authority leased the three unimproved parcels  
25 to the City. On information and belief, the remaining two unimproved properties were transferred to  
26 the Successor Agency upon dissolution of the Former Redevelopment Agency.

27 4. On or about May 10, 2016, by Resolution No. 9353-16, the City entered into a  
28 Disposition and Development Agreement ("DDA") with commercial developer LAB Holding, LLC

1 (“LAB Holding”) for the sale of the twelve (12) single-family homes (the “DDA Properties”).  
2 Under the DDA, the DDA Properties, which were purchased by the Former Redevelopment  
3 Agency with LMIHF monies, have been converted to commercial uses.

4         5.         On or about May 10, 2016, the City also entered into agreements with LAB Holding  
5 for the lease of the five (5) unimproved parcels. By Resolution No. 9354-16, the City entered into a  
6 lease agreement (the “Lease”) with LAB Holding for the lease of two (2) of the unimproved  
7 properties owned by the City (the “City Properties”) for one dollar (\$1.00) per year for fifteen (15)  
8 years. By the same resolution, the City also entered into a sublease agreement (the “Sublease”)   
9 with LAB Holding for the sublease of three (3) of the unimproved properties owned by the Housing  
10 Authority (the “Housing Authority Properties”) for one dollar (\$1.00) per year for fifteen (15)  
11 years. (The Lease and Sublease are hereby collectively referred to as the “Lease Agreements.” The  
12 City Properties and the Housing Authority Properties are hereby collectively referred to as the  
13 “Leased Properties.”) Under the Lease Agreements, the Leased Properties, which upon information  
14 and belief, were purchased by the Former Redevelopment Agency with LMIHF monies, have been  
15 converted to commercial uses. (The DDA Properties, the City Properties, and the Housing  
16 Authority Properties are hereby collectively referred to as the “Subject Properties.”)

17         6.         The Community Redevelopment Law, codified at Health & Safety Code §§ 33000 *et*  
18 *seq.* (“CRL”), imposes two key requirements. First, it restricts the use of LMIHF monies to the  
19 purposes of increasing, improving, and preserving the supply of low- and moderate-income housing  
20 at affordable housing cost. Second, the CRL requires that redevelopment agencies adopt a  
21 Replacement Housing Plan to replace low-income dwelling units that are removed or destroyed as a  
22 result of its redevelopment activities. Such plans must be adopted before executing an agreement  
23 which will result in displacement of low- and moderate- income residents, and the displaced  
24 residents must be given preference for replacement units. Here, Respondents violated both  
25 requirements. Respondents used LMIHF monies to purchase and hold property for future  
26 commercial development rather than for “increasing, improving and preserving the supply of low-  
27 and moderate-income housing” and, once the desired commercial development opportunity  
28 appeared, Respondents transferred the Subject Properties to LAB Holding without first developing

1 or implementing a Replacement Housing Plan to support the displaced families who depended upon  
2 this low-income housing.

3 7. This is not the first time Respondents have flouted the CRL. In 2009, former  
4 residents of the Travel Country RV Park (the “Park”) in Garden Grove faced displacement after the  
5 Former Redevelopment Agency acquired the Park and then transferred it to a private developer to  
6 construct a water park and hotel, without first having entered into a Replacement Housing Plan as  
7 required under state law. Petitioner the Kennedy Commission, along with several impacted  
8 residents, challenged the Redevelopment Agency’s failure to timely adopt a Replacement Housing  
9 Plan in Orange County Superior Court. *See Marina Limón et al. v. Garden Grove Agency for*  
10 *Community Development et al.* (O.C. Super. Ct., 2009, Case No. 30-2009-00291597) (the “Limón  
11 Action”). There, by way of a stipulated judgment, Respondents agreed to develop replacement  
12 housing, provide relocation assistance, and pay attorneys’ fees. Here, by entering into the DDA and  
13 the Lease Agreements, Respondents again plan to unlawfully displace, and in fact have displaced,  
14 low-income residents of Garden Grove without any plan for replacement of the affordable dwelling  
15 units on the Subject Properties, in violation of the CRL.

16 8. By this action, Petitioners seek this Court’s determination that Respondents violated  
17 the CRL by improperly transferring properties acquired with LMIHF monies to a private developer  
18 for commercial use and by failing to adopt a Replacement Housing Plan for replacement of the  
19 dwelling units. Additionally, Petitioners seek an order prohibiting Respondents from using LMIHF  
20 monies for anything other than increasing, improving, and preserving the supply of low- and  
21 moderate-income housing at affordable housing cost. Petitioners also seek an order compelling  
22 Respondents to adopt a Replacement Housing Plan for the replacement of the dwelling units on the  
23 Subject Properties, as required by the CRL.

## 24 II. JURISDICTION & VENUE

25 9. This Court has jurisdiction to hear the subject matter of this complaint. This Court  
26 also has jurisdiction over each Respondent, as the acts and omissions alleged herein occurred in  
27 California. Venue is proper in this Court because all of the violations of law alleged herein occurred  
28 and are occurring in the County of Orange.

1 **III. PARTIES**

2 **A. Petitioners/Plaintiffs**

3 10. Petitioner and Plaintiff the KENNEDY COMMISSION (the “Kennedy  
4 Commission”) is a 501(c)(3) non-profit corporation with its principal place of business in Irvine,  
5 County of Orange, California.

6 11. Formed in 2001, the Kennedy Commission’s mission addresses the impact of the  
7 statewide housing crisis within Orange County, where rising housing prices make the housing  
8 market increasingly inhospitable to lower-income working families. The Kennedy Commission  
9 advocates for production of affordable homes in Orange County on behalf of Orange County’s low-  
10 income residents through education for communities and professionals in the housing industry;  
11 policy research and advocacy; and community engagement. Its membership represents a broad  
12 spectrum of the Orange County community, including government officials, housing developers,  
13 homeless-service providers, employers, health care providers, lenders, and residents.

14 12. Countywide, the Kennedy Commission’s research and advocacy have resulted in the  
15 production or approval of over 3,500 affordable homes. The Kennedy Commission’s activities in  
16 Garden Grove include advocacy for preservation of low-income housing as a petitioner in the  
17 *Limón* Action. The Kennedy Commission engaged in these efforts in the public interest and on  
18 behalf of lower-income working families in Garden Grove and Orange County.

19 13. The members and staff of the Kennedy Commission have expended significant time,  
20 efforts, and resources to advocate for affordable housing in Garden Grove. These efforts have  
21 required the Kennedy Commission to divert resources from the Kennedy Commission’s other  
22 programs in Orange County, including financial and staff resources. As such, the Kennedy  
23 Commission has a direct and substantial beneficial interest in assuring that Respondents comply  
24 with their obligations under the CRL and therefore it has standing to bring the claims set forth in  
25 this Petition and Complaint.

26 14. Petitioner and Plaintiff KIMBERLY FREEMAN (“Freeman”) has been a resident of  
27 the City of Garden Grove (“City”) since 2008. In December 2016, Freeman was forced to move out  
28 of her longtime residence in the City. Freeman and her six-year-old granddaughter—for whom

1 Freeman is the legal guardian—have been unstably housed ever since. She has been searching for  
2 affordable housing in the City for months, but has been unable to find any vacancies. Freeman has  
3 also been on the Garden Grove Housing Authority’s Section 8 waitlist for approximately 7 years  
4 and was recently informed that she would likely remain on the waitlist for an additional 10 years  
5 because of funding issues. She and her granddaughter frequently stay in motels in the City while  
6 she continues to search for permanent, affordable housing.

7 15. Freeman would like to remain in Garden Grove and would apply for affordable  
8 housing if it were to become available. She has a network of friends who reside in Garden Grove,  
9 and her granddaughter attends elementary school in the City. As such, Freeman has a direct and  
10 substantial beneficial interest in assuring that Respondents comply with their obligations under the  
11 CRL and therefore has standing to bring the claims set forth in this Petition and Complaint.  
12 Additionally, Freeman brings this action as a taxpayer of Garden Grove, pursuant to Code of Civil  
13 Procedure §526a. She has paid taxes in the City of Garden Grove in the twelve (12) months  
14 preceding the filing of this action.

15 16. Petitioner and Plaintiff SARAH GREEN (“Green”) is a single mother of two sons,  
16 ages 7 and 1. Green was raised in Garden Grove and lived permanently in the City with her mother  
17 until she was forced to move. Green was unable to afford rents or locate affordable housing in  
18 Garden Grove. She has been on the Garden Grove Housing Authority’s Section 8 waitlist for  
19 approximately 8 years. Green and her two sons are currently unstably housed, often staying in  
20 motels in Garden Grove as a last resort.

21 17. As a longtime resident of Garden Grove, Green has built a strong support network of  
22 family and friends who reside in the City. As such, she would like to find permanent and affordable  
23 housing in Garden Grove and would apply for affordable housing if it were to become available.  
24 Green has a direct and substantial beneficial interest in assuring that Respondents comply with their  
25 obligations under the CRL and therefore has standing to bring the claims set forth in this Petition  
26 and Complaint. Additionally, Green brings this action as a taxpayer of Garden Grove, pursuant to  
27 Code of Civil Procedure §526a. She has paid taxes in the City of Garden Grove in the twelve (12)  
28 months preceding the filing of this action.

1 **B. Respondents/Defendants**

2 18. Respondent CITY OF GARDEN GROVE (“City”), operating in its municipal  
3 capacity, is a municipal entity formed and existing under the laws of the State of California and is a  
4 political subdivision thereof.

5 19. Respondent CITY OF GARDEN GROVE as Successor Agency to the Garden  
6 Grove Agency for Community Development (“Successor Agency”) is a municipal entity formed  
7 and existing under the laws of the State of California and is a political subdivision thereof. The  
8 Successor Agency became the successor agency to the former Garden Grove Agency for  
9 Community Development (the “Former Redevelopment Agency”) on or about February 1, 2012.  
10 The authority, rights, power, duties, and obligations vested to the Former Redevelopment Agency  
11 under the CRL are now vested with the Successor Agency, pursuant to Health & Safety Code §  
12 34173(b), with the exception of those rights, powers, duties, and obligations transferred to the  
13 Housing Successor. Successor agencies are tasked with the role of completing all “enforceable  
14 obligations,” as that term is defined by Health & Safety Code § 34171, and making all payments  
15 due for such obligations.

16 20. Respondent GARDEN GROVE HOUSING AUTHORITY (“Housing Authority”) is  
17 a municipal entity formed and existing under the laws of the State of California and is a political  
18 subdivision thereof. The Housing Authority became the Housing Successor after the City of Garden  
19 Grove declined to assume the housing assets and functions of the Former Redevelopment Agency  
20 by Resolution No. 9089-12, enacted January 17, 2012. The Housing Authority became the Housing  
21 Successor on or about February 1, 2012, pursuant to Health and Safety Code § 34176(b).

22 Petitioners are informed and believe that all of the housing assets, functions and obligations,  
23 including the liabilities of the Former Redevelopment Agency, transferred to the Housing Authority  
24 upon dissolution of the Former Redevelopment Agency.

25 21. Petitioners are ignorant of the true names and capacities of the persons or entities  
26 named herein as Respondents Does 1-100, but are informed and believe, and on that basis allege,  
27 that each of such Respondents are legally required to act in the manner herein sought. Petitioners  
28 will seek leave to amend this petition and complaint when said Respondents’ true names and

1 capacities have been ascertained.

2 **IV. STATEMENT OF FACTS**

3 **A. Statutory Background: The Community Redevelopment Law and Dissolution Law**

4 22. Redevelopment agencies were created by the local legislative body in accordance  
5 with the state Community Redevelopment Law (“CRL”), Health & Safety Code §§ 33101-33105.  
6 Redevelopment agencies were established to eliminate blight which cannot be accomplished by  
7 private enterprise alone. Health & Safety Code §§ 33030, 33037, 33320.1. Agencies designated  
8 one or more redevelopment areas, each governed by its own redevelopment plan, to accomplish  
9 eradication of blight. Health and Safety Code §§ 33320.1, 33322, 33367.

10 23. Redevelopment agencies used tax increment revenue to finance revitalization  
11 activity. Tax increment revenue consists of the property taxes from the land within the boundaries  
12 of the redevelopment project area, which amounts were frozen as of the date the redevelopment  
13 plan was adopted. As property values rose and higher taxes were assessed by the county, the  
14 increased tax revenue became “tax increment.” Const. Art. 16, § 16; Health & Safety Code §§  
15 33670, 33670.5.

16 24. With the exception of certain payments to other taxing entities such as the county  
17 and school districts, the tax increment from each project area was paid to redevelopment agencies  
18 over the life of the redevelopment plan, often 30 years or more. Redevelopment agencies primarily  
19 used the increased tax revenue to pay the principal and interest on debt incurred by the agency to  
20 finance its redevelopment activities. Health & Safety Code § 33675.

21 25. If a redevelopment agency received tax increment revenue, as did the Former  
22 Redevelopment Agency, it was required to deposit at least 20% of the gross tax increment into a  
23 Low and Moderate Income Housing Fund (“LMIHF”). The money in this housing fund was to be  
24 used to increase, improve, and preserve the community’s supply of affordable housing. Health &  
25 Safety Code §§ 33334.2, 33334.3(a), 33334.6.

26 26. All redevelopment agencies dissolved as a matter of law on February 1, 2012,  
27 pursuant to legislation that amended the CRL, in accordance to Stats. 2011-12 1st Ex. Sess. Ch. 5,  
28 enacted June 29, 2011 (“ABx1 26” or “Dissolution Law”), as modified by the decision of the



1 California Supreme Court in *CRA v. Matosantos*, 53 Cal.4th 231 (2011), and as amended by Stats.  
2 2012, Ch. 26, enacted June 27, 2012 (AB 1484). When the redevelopment agencies dissolved  
3 pursuant to ABx1 26, any “tax increment” that would have been allocated to redevelopment  
4 agencies was instead allocated to successor agencies for payment of enforceable obligations  
5 incurred by the former redevelopment agencies; the remaining balances were allocated in  
6 accordance with applicable constitutional and statutory provisions. Health & Safety Code § 34183,  
7 ABx1 26, at Ch. 5, § 1(i).

8 27. The CRL requires that redevelopment agencies and successor agencies include  
9 affordable housing units when engaging in housing redevelopment activity. A percentage of the  
10 units developed in any project area must be occupied by and affordable to households with very  
11 low, low, or moderate incomes. Health & Safety Code § 33413(b).

12 28. The CRL requires that redevelopment agencies and successor agencies replace  
13 dwelling units that have been removed or destroyed from the low- and moderate-income housing  
14 market as part of the redevelopment project. Health & Safety Code § 33413(a). Redevelopment  
15 agencies and their successors must adopt a replacement housing plan no less than 30 days before  
16 entering into an agreement that will lead to the destruction or removal of dwelling units from the  
17 low- and moderate-income housing market. Health & Safety Code § 33413.5.

18 29. To maintain affordability of the units for lower-income households, the CRL  
19 requires that agencies record and enforce long-term affordability covenants against the property.  
20 Health & Safety Code §§ 33334.3(f), 33413. In the case of rental housing, the covenants must  
21 extend for fifty-five (55) years. Health & Safety Code §§33334.3(f)(1)(A); 33413(b)(2)(C).  
22 Agencies must also monitor occupancy of the units and maintain a database of the affordable  
23 housing units that are developed, financed, or assisted by the agency, or otherwise counted to meet  
24 the CRL’s affordable housing obligations. Health & Safety Code §§ 33413, 33418. Successor  
25 agencies are required to report on the outstanding obligations to produce and replace affordable  
26 housing pursuant to Section 33413. Health & Safety Code § 34176.1(f).

27 30. After dissolution, the LMIHF monies remaining from the former redevelopment  
28 agency, and any funds generated from housing assets, as defined, must be maintained in a new Low

1 and Moderate Income Housing Asset Fund (“Housing Asset Fund”). Health & Safety Code §  
2 34176(d). The monies in the Housing Asset Fund must also be used consistently with the former  
3 LMIHF laws, with additional restrictions imposed by the Dissolution Law. Health & Safety Code §  
4 34176.1(a).

5 **B. The Former Redevelopment Agency Purchased the Subject Properties with LMIHF**  
6 **Monies**

7 31. At various times beginning in 1980, the Former Redevelopment Agency acquired  
8 the Subject Properties as part of its redevelopment activities for a proposed “Civic Center Project.”  
9 Upon information and belief, the Subject Properties were acquired with assets from the Former  
10 Redevelopment Agency’s LMIHF.

11 32. On or about March 13, 2007, the Former Redevelopment Agency entered into an  
12 Affordable Housing Agreement with the Housing Authority conveying and restricting the use of  
13 twelve of the seventeen properties involved in this action. Under the Affordable Housing  
14 Agreement, the Housing Authority agreed to operate ten (10) single-family homes as affordable  
15 housing and to use two (2) unimproved parcels for any purpose authorized by the CRL and Housing  
16 Authorities Law. On information and belief, from March 2007 to November 2016, Respondents  
17 continuously operated those twelve properties pursuant to the Affordable Housing Agreement. On  
18 or about November 22, 2016, the Housing Authority approved the termination of the Affordable  
19 Housing Agreement.

20 33. On December 9, 2016, the Successor Agency quitclaimed another three single-  
21 family homes to the Housing Authority, which the Housing Authority then transferred to the City.  
22 Upon information and belief, these three single-family homes were operated as affordable housing  
23 prior to their transfer to the City.

24 34. On information and belief, the remaining two properties, which were unimproved,  
25 were transferred to the Successor Agency upon dissolution of the Former Redevelopment Agency.

26 35. Pursuant to the City’s response to a Public Record Act’s request, from 1980 to 2010,  
27 the Former Redevelopment Agency expended a combined total of at least \$4,517,900 from the  
28 LMIHF to acquire eleven out of the twelve DDA Properties and at least \$575,000 from the LMIHF

1 to acquire two of the three Housing Authority Properties.

2 **C. The City Enters Into the DDA and the Lease Agreements for Conversion of the**  
3 **Subject Properties to Commercial Use Without Adopting a Replacement Housing Plan**

4 36. On or about May 10, 2016, the Housing Authority adopted Resolution No. 174-16  
5 and the City adopted Resolution No. 9351-16, which approved a purchase and sale agreement  
6 between the Housing Authority and the City, transferring to the City the twelve DDA Properties.

7 37. On or about May 10, 2016, the City, through its City Council, adopted Resolution  
8 No. 9353-16, authorizing the DDA between the City and LAB Holding, a private commercial  
9 developer, for the sale of the twelve DDA Properties for the Civic Center Project. A list identifying  
10 the DDA Properties is attached hereto as Exhibit A. The resolution states that the developer will  
11 rehabilitate and reuse the homes in the Civic Center Project “for commercial uses consistent with  
12 the zoning’s mixed use character, including, but not limited to, markets, cafes, office and retail  
13 uses, all in compliance with the City’s building and zoning regulations.” The DDA makes no  
14 provision for affordable housing.

15 38. Under the DDA, the City sold the DDA Properties to LAB Holding for  
16 \$3,386,437.50. Upon information and belief, the sale price for the DDA Properties is less than their  
17 fair market value. The DDA provides that LAB Holding shall pay the City 20% cash down  
18 payment, or \$677,257.50, upon close of escrow. Upon information and belief, escrow closed on the  
19 DDA Properties in December 2016. The City loaned the remaining \$2,709,030.00 to LAB Holding  
20 at 4% interest, secured by a Deed of Trust against the DDA Properties, repayment of which  
21 becomes due five years from the date of the DDA. Thus, by authorizing the DDA, the City has  
22 loaned nearly \$3 million dollars in LMIHF monies to a commercial developer for commercial use.  
23 Upon information and belief, Respondents have not and do not intend to reimburse the LMIHF with  
24 the full monetary value of the DDA Properties.

25 39. On or about May 10, 2016, the Housing Authority adopted Resolution No. 175-16  
26 and the City adopted Resolution No. 9352-16, which approved a lease agreement between the  
27 Housing Authority and the City, leasing to the City the three Housing Authority Properties.

28 40. On or about May 10, 2016, the City, through its City Council, adopted Resolution

1 No. 9354-16, authorizing the Lease Agreements with LAB Holding for the sublease of the three  
2 Housing Authority Properties and the lease of the two City Properties for one dollar (\$1.00) per  
3 year for fifteen (15) years for each of the five Leased Properties, obviously well below fair market  
4 value. A list identifying the Leased Properties is attached hereto and incorporated herein by  
5 reference as Exhibit A. The Lease Agreements state that the developer will rehabilitate and reuse  
6 the Leased Properties for “the purposes of developing, constructing and operating its Cottage  
7 Industries project, consisting of commercial uses, parking lots, landscaping, and for other  
8 reasonable associated uses consistent with Tenant’s purposes.” The Lease Agreements also make  
9 no provision for affordable housing. Upon information and belief, Respondents have not and do not  
10 intend to reimburse the LMIHF with the full monetary value of the Leased Properties.

11 41. The transfer of the Subject Properties to LAB Holding pursuant to the DDA and the  
12 Lease Agreements required Respondents to remove and displace all residential tenants of said  
13 properties and to remove critical affordable housing supply from the city’s low-income housing  
14 stock. Although the Subject Properties were purchased using the LMIHF established by the CRL,  
15 which is restricted to uses that increase, improve, and preserve the community’s supply of low- and  
16 moderate-income housing, Respondents, through the DDA and the Lease Agreements, authorized  
17 the use of such funds for commercial purposes when it transferred the Subject Properties to LAB  
18 Holding, a commercial developer. Respondents’ misappropriation of restricted housing funds in  
19 this manner violates the CRL.

20 42. Respondents further violated the CRL by authorizing conversion of the Subject  
21 Properties from low-income housing to commercial use without adopting a Replacement Housing  
22 Plan that commits to develop the required replacement housing. On information and belief, in the  
23 years since acquiring the Subject Properties, Respondents have also failed to record long-term  
24 affordability covenants to maintain the affordable housing use of the Subject Properties, as required  
25 by the CRL.

1 **CAUSES OF ACTION**

2 **FIRST CAUSE OF ACTION**

3 **For a Writ of Mandate Against the Illegal use of Low and Moderate Income Housing Funds**

4 **(Health & Safety Code §§ 33334 *et seq.*; Code of Civ. Proc § 1085)**

5 **[Against All Respondents]**

6 43. Petitioners incorporate by reference herein each and every allegation of paragraphs 1  
7 through 42, inclusive, above.

8 44. The CRL requires that monies in the LMIHF shall be used to increase, improve, and  
9 preserve the supply of low- and moderate-income housing within the territorial jurisdiction of the  
10 agency. Health & Safety Code § 33334.3(a).

11 45. The CRL provides that it is the intent of the Legislature that the LMIHF be used to  
12 the maximum extent possible to defray the costs of production, improvement, and preservation of  
13 low- and moderate-income housing and that the amount of money spent for planning and general  
14 administrative activities associated with the development, improvement, and preservation of that  
15 housing not be disproportionate to the amount actually spent for the costs of production,  
16 improvement, or preservation of that housing. Health & Safety Code § 33334.3(d). It further  
17 provides that housing units developed “shall remain available at affordable housing cost to, and  
18 occupied by, persons and families of low or moderate income and very low income and extremely  
19 low income households for the longest feasible time, but for not less than...[f]ifty-five years for  
20 rental units [and] [f]orty-five years for owner occupied units.” Health & Safety Code §§  
21 33413(b)(2)(C); 33334.3(f)(1)-(f)(1)(A), (B).

22 46. As a consequence of adopting the DDA, Respondents are using housing purchased  
23 with LMIHF, including the DDA Properties and the Leased Properties, to directly support private  
24 commercial development to the derogation of affordable housing. Further, through the extremely  
25 favorable financing of the DDA, Respondents have provided an interest-only loan of \$2,709,030.00  
26 in LMIHF monies to LAB Holding for commercial development. Under the Lease Agreements,  
27 Respondents transferred properties purchased with LMIHF assets to LAB Holding for commercial  
28 use essentially for free. Commercial development is an impermissible use of LMIHF monies and

1 flatly contradicts the requirements of the CRL that housing units purchased or assisted with LMIHF  
2 remain available, affordable, and occupied by low-income individuals for not less than 55 years.  
3 Upon information and belief, Respondents have not reimbursed, and do not intend to reimburse, the  
4 LMIHF with the full monetary value of the Subject Properties.

5 47. Unless compelled by this Court to refrain from acts prohibited by law, Respondents  
6 will continue to refuse to perform said duties and continue to violate the law and Petitioners will be  
7 injured as a result. As such, Petitioners have a direct and substantial beneficial interest in assuring  
8 that the City comply with its obligations under the CRL and state law, and therefore have standing  
9 to bring the claims set forth in this Petition and Complaint.

10 48. Petitioners request declaratory relief determining that commercial use of the Subject  
11 Properties is not a permitted use of LMIHF assets and a writ of mandate prohibiting Respondents  
12 from using LMIHF monies for anything other than increasing, improving, and preserving the  
13 supply of low- and moderate-income housing at affordable housing cost, including commercial  
14 development.

15 **SECOND CAUSE OF ACTION**

16 **Writ of Mandate For Failure to Provide For Replacement Housing**

17 **(Health & Safety Code § 33410 *et seq.*; Code of Civ. Proc. § 1085)**

18 **[Against All Respondents]**

19 49. Petitioners incorporate by reference herein each and every allegation of paragraphs 1  
20 through 48, inclusive, above.

21 50. The CRL requires that when dwelling units occupied by lower-income residents are  
22 destroyed or removed in a redevelopment project area as a result of financial assistance or a written  
23 agreement with a redevelopment agency, one hundred percent of the units must be replaced within  
24 four years from the date of removal. Health & Safety Code § 33413. In addition, when replacement  
25 of such units is required, a redevelopment agency must give priority to those lower-income persons  
26 displaced, to rent or purchase the replacement housing units pursuant to a replacement housing  
27 plan. Health & Safety Code § 33411.3. The CRL also requires that not less than 30 days prior to the  
28 execution of any agreement which would lead to the destruction or removal of dwelling units from

1 the low- and moderate-income housing market, the Agency must prepare and adopt by resolution a  
2 replacement housing plan. Health & Safety Code § 33413.5. Among other things, this plan must  
3 include an adequate means of financing the replacement of one hundred percent of the units  
4 removed. Health & Safety Code §§ 33413(a), 33413.5.

5 51. California Health and Safety Code § 33413.5 further provides that within a  
6 reasonable time before adopting the replacement housing plan, the redevelopment agency must  
7 make a draft of the proposed replacement housing plan available for review and comment by the  
8 Project Area Committee for the Garden Grove Community Project, other public agencies, and the  
9 general public. The Agency must require that persons and families displaced by Agency activity be  
10 given priority to housing that the Agency makes available for rent to low- or moderate-income  
11 households as part of a redevelopment project. Health & Safety Code § 33411.3.

12 52. At all times relevant to this action, Respondents have had clear mandatory duties and  
13 prohibitions imposed by the CRL, and Respondents have repeatedly violated those duties and legal  
14 prohibitions as alleged herein. By adopting the DDA and Lease Agreements, Respondents intend  
15 to, and did, destroy and remove dwelling units purchased with restricted housing funds and  
16 occupied by low-income residents, causing displacement of the low-income families occupying the  
17 Subject Properties. In violation of the CRL, Respondents failed to adopt or make available for  
18 public comment and review a Replacement Housing Plan that plans for the replacement of the  
19 dwelling units on the Subject Properties and gives the displaced residents priority to the  
20 replacement housing at least 30 days prior to adopting the DDA and Lease Agreements.

21 53. Petitioners are directly and beneficially interested in having Respondents comply  
22 with all applicable provisions of the law and their legal duties, as set forth herein. Unless compelled  
23 by this Court to refrain from acts prohibited by law and to comply with their statutory affordable  
24 housing obligations, Respondents will continue to refuse to perform said duties and continue to  
25 violate the law, thereby injuring Petitioners. Petitioners request a writ of mandate compelling  
26 Respondents to immediately adopt an adequate Replacement Housing Plan in compliance with the  
27 CRL.

28

1 **THIRD CAUSE OF ACTION**

2 **Declaratory and Injunctive Relief**

3 **(C.C.P. §§ 526a and 1060)**

4 **[Against All Respondents/Defendants]**

5 54. Petitioners incorporate by reference herein each and every allegation of paragraphs 1  
6 through 53, inclusive, above.

7 55. As a direct and proximate result of the unlawful acts and omissions of the  
8 Respondents as set forth herein, Petitioners are suffering irreparable injury. The injuries Petitioners  
9 suffer are not easily quantifiable or compensable. No money damages or other legal remedy could  
10 adequately compensate Petitioners for the irreparable harm Respondents' conduct has caused,  
11 continues to cause, and threatens to cause Petitioners. Unless enjoined, Respondents will continue  
12 to unlawfully use the LMIHF for commercial development that removes critical low-income  
13 housing from the market without any plan for replacement housing and illegally uses taxpayer  
14 funds, and which otherwise adversely impacts Petitioners.

15 56. Without an order from this Court, Respondents will continue to engage in  
16 redevelopment activities without complying with their obligations to provide replacement housing  
17 units for those that are destroyed or removed.

18 57. An actual controversy has arisen and now exists between Petitioners and  
19 Respondents in that Petitioners contend that Respondents are acting arbitrarily and capriciously and  
20 without evidentiary foundation in authorizing commercial uses for the Subject Properties, which  
21 were acquired with funds restricted to low- and moderate-income housing, and removing dwelling  
22 units from the low- and moderate-income housing market without a Replacement Housing Plan in  
23 violation of state law. As a direct result thereof, Petitioners have been deprived of their rights as  
24 described herein.

25 58. Petitioners are entitled to a legal declaration that Respondents have failed, and  
26 continue to fail, to comply with each of the aforementioned obligations, and Petitioners are entitled  
27 to injunctive relief on these claims.

28 59. Petitioners have no plain, speedy, or adequate remedy at law other than the relief



1 requested in this petition and complaint. Petitioners are entitled to injunctive relief requiring  
2 Respondents to comply with their legal duties alleged herein.

3 **PRAYER FOR RELIEF**

4 WHEREFORE, Petitioners pray that the Court grant the following relief:

- 5 1. Issue a declaration that:
- 6 a. Respondents have not properly developed a Replacement Housing Plan for  
7 the Subject Properties according to Health & Safety Code § 33400 *et seq.*
- 8 b. By adopting the DDA and the Lease Agreements, authorized by City Council  
9 Resolution Nos. 9353-16 and 9354-16, Respondents have illegally used low-  
10 and moderate-income housing funds to develop private commercial  
11 businesses.
- 12 c. Respondents have failed to maintain long-term affordability covenants for  
13 rental housing units affordable to lower-income households in the Subject  
14 Properties.
- 15 2. Issue a writ of mandate that requires the Respondents to:
- 16 a. Refrain from using LMIHF monies for commercial development and for  
17 anything other than increasing, improving, and preserving the supply of low-  
18 and moderate-income housing at affordable housing cost.
- 19 b. Immediately reimburse the LMIHF with the full monetary value of the  
20 Subject Properties, which have been removed from the low- and moderate-  
21 income housing market pursuant to the DDA and Lease Agreements.
- 22 c. Immediately adopt an adequate Replacement Housing Plan that plans for the  
23 financing and replacement of the Subject Properties within four years and  
24 that gives priority to housing for the displaced residents, in compliance with  
25 the CRL.
- 26 3. For temporary, preliminary, and permanent taxpayer injunctive relief restraining and  
27 enjoining Respondents/Defendants, their officers, employees, agents, successors and  
28 assignees from expending public funds in violation of the law, including injunctive

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

relief against issuing any building permits, occupancy permits, business licenses to  
conduct commercial business, or against any development or modification of the  
Subject Properties for commercial use;

- 4. For an award to Petitioners of their costs of suit;
- 5. For an award to Petitioners of their reasonable attorney's fees; and
- 6. For such other and further relief as the Court deems just and proper.

Dated: July 17, 2017

NORTON ROSE FULBRIGHT US LLP  
  
PUBLIC LAW CENTER  
  
CALIFORNIA AFFORDABLE HOUSING  
LAW PROJECT, PUBLIC INTEREST LAW  
PROJECT

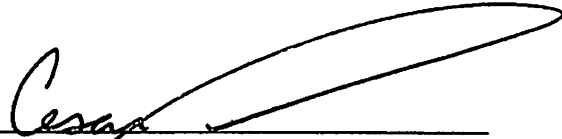
By  \_\_\_\_\_  
JOHN A. O'MALLEY  
Attorneys for Petitioners/Plaintiffs

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

VERIFICATION

I, Cesar Covarrubias, am the Executive Director of the Kennedy Commission, one of the Petitioners/Plaintiffs in the above action. I am authorized to make this verification on behalf of the Kennedy Commission. I have read the foregoing petition for writ of mandate and complaint for declaratory and injunctive relief. To the extent that the Petition is based upon facts that are known to me, I verify that they are true, and otherwise, I am informed and believed that all facts herein are true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 14 day of July, 2017 in Irvine, California.

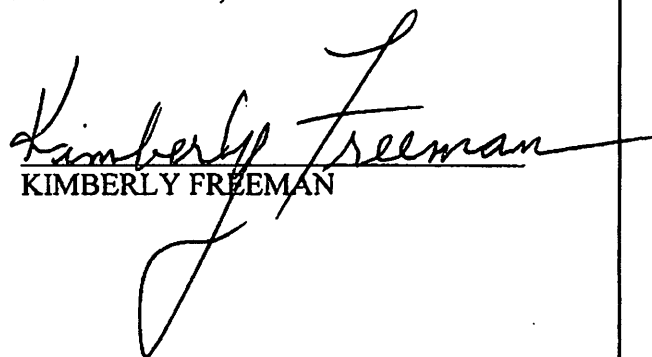
  
\_\_\_\_\_  
CESAR COVARRUBIAS

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**VERIFICATION**

I, Kimberly Freeman, am one of the Petitioners/Plaintiffs in the above action. I have read the foregoing petition for writ of mandate and complaint for declaratory and injunctive relief. To the extent that the Petition is based upon facts that are known to me, I verify that they are true, and otherwise, I am informed and believed that all facts herein are true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 14 day of July, 2017 in Santa Ana, California.

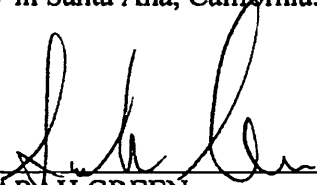
  
KIMBERLY FREEMAN

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**VERIFICATION**

I, Sarah Green, am one of the Petitioners/Plaintiffs in the above action. I have read the foregoing petition for writ of mandate and complaint for declaratory and injunctive relief. To the extent that the Petition is based upon facts that are known to me, I verify that they are true, and otherwise, I am informed and believed that all facts herein are true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 17 day of July, 2017 in Santa Ana, California.

  
\_\_\_\_\_  
SARAH GREEN

**EXHIBIT A**

**DDA PROPERTIES (OWNED BY LAB HOLDING)**

	<b>Address</b>	<b>Assessor Parcel Number (APN)</b>	<b>GGACD Acquisition Year</b>
1	12902 7TH	090-173-04	2002
2	12911 7TH	090-172-18	2006
3	12912 7TH	090-173-05	2007
4	12932 7TH	090-173-07	2002
5	12911 8TH	090-173-16	2003
6	12932 8TH	090-174-05	1993
7	12931 9TH	090-174-11	2010
8	12941 9TH	090-174-10	2006
9	11361 GARDEN GROVE BLVD	090-173-09	2008
10	11391 GARDEN GROVE BLVD	090-173-11	2003
11	11352 ACACIA PKWY	090-172-29	1980
12	11412 ACACIA PKWY	090-173-22	2003

**HOUSING AUTHORITY PROPERTIES (SUBLEASED TO LAB HOLDING)**

	<b>Address</b>	<b>Assessor Parcel Number (APN)</b>	<b>GGACD Acquisition Year</b>
13	12951 7TH	090-172-15	2001
14	12942 8TH	090-174-06	1992
15	11421 GARDEN GROVE BLVD	090-174-07	2000

**CITY PROPERTIES (LEASED TO LAB HOLDING)**

	<b>Address</b>	<b>Assessor Parcel Number (APN)</b>	<b>GGACD Acquisition Year</b>
16	11301 GARDEN GROVE BLVD	090-172-31	
17	11461 GARDEN GROVE BLVD	090-174-19	