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13 AND STEVEN CHANDLER

14 *[List of counsel continued on last page.]*

15 SUPERIOR COURT OF THE STATE OF CALIFORNIA
16 COUNTY OF SANTA CLARA

17 JOAN MACDONALD and STEVEN
18 CHANDLER,

19 Petitioners,

20 v.

21 RENTAL HOUSING COMMITTEE, a municipal
22 body, and DOES 1 through 50 inclusive,

23 Respondents,

Case No.:

17CV314995

**VERIFIED PETITION FOR
ALTERNATIVE WRIT OF MANDATE**

[Cal. Civ. Proc. Code § 1085 et seq.]

FILED
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CHECKED BY COURT
COUNTY OF SANTA CLARA
BY S. Alvarez

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INTRODUCTION

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1. Petitioners JOAN MACDONALD and STEVEN CHANDLER bring this action against the RENTAL HOUSING COMMITTEE of the City of Mountain View, California (“RHC” or “Respondent”) to require that the RHC discharge its duty under the City of Mountain View’s charter to implement the Community Stabilization and Fair Rent Act (“CSFRA”). Specifically, Petitioners bring this action to require that the RHC announce and publicize that December 23, 2016 is the lawful effective date of the CSFRA pursuant to its own terms and governing law, and implement the CSFRA accordingly.

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PARTIES

2. Petitioner JOAN MACDONALD is an individual resident of Mountain View, California (“City”). MACDONALD has been a resident and homeowner in the City for over fifty years, and was a proponent, pursuant to the California Elections Code, of the citizen-initiated ballot measure designated as Measure V on the City’s ballot in the November 2016 election. Measure V sought to amend the City’s charter to add the Community Stabilization and Fair Rent Act (“CSFRA” or “Act”), which restricted annual rent increases and provided “just cause eviction” protections for covered tenancies.

3. Petitioner STEVEN CHANDLER is a tenant residing in the City of Mountain View, California. Along with MACDONALD, CHANDLER was a proponent of Measure V on the City’s November 2016 ballot.

4. Respondent RENTAL HOUSING COMMITTEE is an appointed five-member municipal entity within the government of the City. Under the terms of the CSFRA, the RHC is charged with the implementation and enforcement of the Act, and is an “integral part of the government of the City.” *See* CSFRA § 1709.

5. DOES 1-50 are persons or entities whose identities or relationship to this action are not now known. Petitioners will seek leave of the Court to amend this Petition by substituting the true names and relationships of said persons or entities when they become known. Each of the fictitiously named respondents acted either individually or in concert with the named Respondent and is responsible in some manner for the occurrences alleged in this Petition, and the injuries to

1 Petitioners may be further redressed by including such fictitious parties in this litigation.

2 **BACKGROUND AND FACTUAL ALLEGATIONS**

3 **Campaign for and Passage of the CSFRA**

4 6. Petitioners were proponents of Measure V, a ballot initiative submitted to enact the
5 CSFRA. On April 1, 2016, pursuant to the California Elections Code, Petitioners submitted to
6 the City clerk their Notice of Intent to Circulate Petition to amend the City’s charter to add the
7 CSFRA, along with the full text of the Act. Petitioners also timely published in a newspaper of
8 record their intent and a summary of the measure, and proceeded to circulate the petition and
9 collect signatures necessary to submit the measure to the voters on the November 8, 2016 City
10 ballot.

11 7. On June 14, 2016, Petitioners presented the City clerk with petitions bearing
12 signatures ready for verification. A sufficient number of signatures was validated, and the
13 CSFRA was designated as “Measure V” on the November 8, 2016 ballot.

14 8. A majority of voters in the election voted to enact Measure V in the November 8,
15 2016 election. On December 13, 2016, the Mountain View City Council declared the results of
16 the November 8, 2016 election, including the passage of Measure V.

17 9. The CSFRA provides that the Act “shall be effective only if approved by a majority
18 of the voters voting thereon and shall go into effect ten (10) days after the vote is declared by the
19 City Council.” CSFRA § 1720. The date ten days after the vote was declared by the City
20 Council was December 23, 2016.

21 10. The CSFRA created a five-member (plus one alternate) appointed body called the
22 “Rental Housing Committee” to implement and oversee administration of the CSFRA. The
23 CSFRA charges the RHC with various duties, including the duties to “[e]stablish rules and
24 regulations for administration and enforcement of” the CSFRA and to “[p]ublicize through
25 reasonable and appropriate means the provisions of” the CSFRA. CSFRA § 1709(d).

26 **Litigation of Facial Challenge to CSFRA**

27 11. On December 21, 2016, two days before the CSFRA was to go into effect, the
28 California Apartment Association (“CAA”) filed a civil action in the Superior Court of the

1 County of Santa Clara against the City (Case Number 16CV304253) (“the CAA Action”). That
2 action alleged that the CSFRA was unconstitutional on its face and violated State law, and sought
3 injunctive and declaratory relief invalidating the CSFRA.

4 12. On December 22, 2016, the City and CAA stipulated to a Temporary Restraining
5 Order (“TRO”), which the Court signed that day. The TRO enjoined the City from enforcing the
6 CSFRA until February 3, 2017, unless the CAA filed an application for preliminary injunction on
7 or before that date, in which case enforcement of the CSFRA was enjoined until final disposition
8 of that preliminary injunction. A true and accurate copy of the TRO is attached hereto as **Exhibit**
9 **A** and incorporated by reference.

10 13. In particular, the TRO provided: “[t]he effective date of [the CSFRA] is hereby
11 stayed and [City] is enjoined from making any attempts to enforce” the Act.

12 14. On February 2, 2017, the CAA filed its motion for preliminary injunction, and the
13 TRO was thus extended until its disposition.

14 15. On February 6, 2017, Petitioners, along with one other individual and two not-for-
15 profit organizations with an interest in the litigation (collectively, “Defendant-Intervenors”),
16 sought to intervene as defendants in the CAA Action. On March 16, 2017, two California limited
17 liability companies and one California limited partnership, landlords in Mountain View, sought
18 leave to intervene as plaintiffs in the same action. Both motions to intervene were granted.

19 16. The parties to the CAA Action extensively briefed the plaintiffs’ motion for
20 preliminary injunction, and oral argument was held in this Court on April 4, 2017.

21 17. On April 5, 2017, Judge Elfving denied the plaintiffs’ motion for preliminary
22 injunction, finding no evidence of irreparable harm, no likelihood of success on the merits, and
23 that the balance of the interests demanded denial of the motion.

24 18. On May 5, 2017, the CAA dismissed the CAA Action in its entirety. On May 9,
25 2017, the intervening landlord-plaintiffs similarly dismissed their case.

26 **Failure of the RHC to Perform Its Duty to Implement the CSFRA**

27 19. On April 18, 2017, the Mountain View City Council appointed the Rental Housing
28 Committee (“RHC”). The RHC commenced a schedule of regular public meetings and

1 established a work plan to implement the CSFRA. Prior to the appointment of the RHC, the City
2 was delegated with “tak[ing] whatever steps necessary to perform the duties of the Committee
3 and implement the purposes of the [CSFRA].” CSFRA § 1709.

4 20. The CSFRA sets forth numerous duties of the RHC. Those duties include, without
5 limitation, the duty to (1) “[e]stablish rules and regulations for administration and enforcement of
6 this Article,” (2) “[p]ublicize through reasonable and appropriate means the provisions of this
7 Article,” and (3) perform “any other duties necessary to administer and enforce this Article.” *See*
8 CSFRA § 1709(d).

9 21. In the weeks following the denial of the motion for preliminary injunction, and
10 prior to the RHC’s appointment, City staff undertook various activities to publicize the terms of
11 the CSFRA and to educate the public regarding the new law. Those activities included
12 communications about the denial of the motion and the effective date of the CSFRA.

13 22. On May 26, 2017, counsel for Petitioners and the other Defendant-Intervenors sent
14 a letter to outside counsel for the City in the CAA Action (“the May 26, 2017 Letter”). A true
15 and accurate copy of that letter is attached hereto as **Exhibit B** and incorporated by reference.

16 23. At the time that the May 26, 2017 letter was sent to counsel, the City’s website
17 regarding the implementation of the CSFRA stated: “**Effective April 5, 2017**, rent levels and rent
18 increases . . . must comply with the CSFRA” (emphasis in original).

19 24. The City also made available on its website a PowerPoint presentation regarding
20 the implementation of the CSFRA. That website included a slide with the chronology of events
21 leading to the denial of the motion for preliminary injunction. That slide stated, *inter alia*,

- 22 • “December 22, 2016: Temporary Restraining Order on CSFRA
- 23 • April 5, 2017: Preliminary Injunction Denied: CSFRA Effective.”

24 A true and accurate copy of that slide is attached hereto as **Exhibit C** and incorporated by
25 reference. That slide remains accessible on the City’s website at the following url address:
26 <http://www.mountainview.gov/civicax/filebank/blobdload.aspx?- BlobID=23051>.

27 25. The May 26, 2017 Letter set forth Petitioners’ position that the CSFRA was
28 effective as of December 23, 2016, as opposed to April 5, 2017, the date that the City had been

1 publicizing. The letter provided legal authority for the proposition that the TRO delayed
2 implementation of the CSFRA but did not reform the terms of the Act, including its effective
3 date. The letter accordingly demanded that the City acknowledge the plain language of the
4 CSFRA with respect to its effective date.

5 26. On information and belief, after receipt of the May 26, 2017 Letter the City
6 removed from its website the “Effective April 5, 2017” language described in Paragraph 23,
7 *supra*. However, the PowerPoint presentation described in Paragraph 24, *supra*, remained
8 publicly available.

9 27. On July 13, 2017, counsel for Petitioners and the other Defendant-Intervenors in
10 the CAA Action sent a letter directly to the RHC (“July 13, 2017 Letter”). A true and accurate
11 copy of this letter is attached hereto as **Exhibit D** and is incorporated herein by reference.

12 28. The July 13, 2017 Letter again set forth the Petitioners’ and Defendant-
13 Intervenors’ position regarding the effective date of the CSFRA, described the statutory basis for
14 the RHC’s duty to implement the CSFRA, and demanded that the RHC “publicize through all
15 reasonable means the effective date required by the plain language of the CSFRA: December 23,
16 2016.”

17 29. Through its counsel in the CAA Action, the CAA submitted a letter to the RHC
18 dated July 17, 2017 stating its position that the effective date of the CSFRA was April 5, 2017. A
19 true and accurate copy of this letter is attached hereto as **Exhibit E** and is incorporated herein by
20 reference.

21 30. On July 24, 2017, the RHC held one of its regular and publicly noticed meetings.
22 The agenda for that meeting included Item 7.1: “Adopt Effective Date of the CSFRA.” A true
23 and accurate copy of the publicly available agenda for the July 24, 2017 RHC meeting is attached
24 hereto as **Exhibit F** and incorporated herein by reference.

25 31. City staff prepared a staff report regarding agenda item 7.1. A true and accurate
26 copy of that staff report is attached hereto as **Exhibit G** and incorporated herein by reference.
27 The staff report reviewed the history of the CSFRA litigation and correspondence regarding the
28 Act’s effective date, and recommended that the RHC adopt December 23, 2016 as the effective

1 date of the CSFRA. The agenda packet for the July 24, 2017 RHC meeting also included draft
2 resolutions for the RHC to consider: one adopting December 23, 2016 as the CSFRA's effective
3 date, and the other adopting April 5, 2017 as the effective date.

4 32. At its July 24, 2017 meeting, the RHC did not adopt the recommendation
5 contained in the staff report, nor did it adopt either of the resolutions that staff had prepared. The
6 RHC failed to state or recognize an effective date of the CSFRA, and instead directed City staff to
7 file a declaratory judgment action against Petitioners and CAA, seeking a court order to resolve
8 what it characterized as a dispute between those two parties about the Act's effective date.

9 33. On August 9, the RHC initiated civil litigation in this Court pursuant to Cal. Civ.
10 Proc. Code § 1060, seeking a declaratory judgment with respect to the effective date of the
11 CSFRA (Santa Clara County Superior Court, Case No. 17CV314254) (the "Declaratory Relief
12 Action"). The RHC's complaint for declaratory relief alleges that a controversy regarding the
13 CSFRA's effective date exists between Petitioners and CAA, and prays that the Court "issue a
14 declaratory judgment determining the effective date" of the CSFRA. A true and accurate copy of
15 the RHC's Complaint in the Declaratory Relief Action is attached hereto as **Exhibit H** and
16 incorporated by reference.

17 34. As the RHC acknowledged in the Declaratory Relief Action, the CSFRA's
18 effective date is necessary in order for tenants and landlords to understand their rights and duties
19 under the Act and for the RHC to perform its duties under the CSFRA to calculate rents owed by
20 Mountain View tenants to Mountain View landlords. *See* Exhibit H at 2:19-23; *see also* CSFRA
21 § 1709.

22 35. On information and belief, the RHC's failure to properly implement the CSFRA's
23 effective date has and will lead to disputes between tenants and landlords regarding the amount of
24 rent due under the CSFRA. In addition, the RHC must acknowledge and implement the effect
25 date to determine which tenancies are exempt from the Act's rent stabilization provisions.
26 CSFRA § 1703(a)(4).

27 36. Petitioners now seek a writ of mandate compelling the RHC to publicize through
28 reasonable and appropriate means that the effective date of the CSFRA is December 23, 2016,

1 establish those rules, regulations and communications necessary to effectuate December 23, 2016
2 as the effective date of the CSFRA; and train all relevant City staff that December 23, 2106 is the
3 effective date of the CSFRA.

4 **FIRST CAUSE OF ACTION**

5 (Writ of Mandate – Failure to Implement the CSFRA
6 Cal. Civ. Proc. Code § 1085; CSFRA sec. 1709)

7 37. Petitioners incorporate by reference herein each and every allegation of paragraphs
8 1-36, inclusive, above.

9 38. As set forth supra, the RHC has at all times relevant to this action had a mandatory
10 duty to implement the CSFRA. Discharge of this duty includes, without limitation, the duties to
11 (1) “[e]stablish rules and regulations for administration and enforcement of this Article,” (2)
12 “[p]ublicize through reasonable and appropriate means the provisions of” the CSFRA, and (3)
13 perform “any other duties necessary to administer and enforce this Article.” CSFRA § 1709(d).

14 39. By failing to acknowledge, publicize, and implement December 23, 2016 as the
15 effective date of the CSFRA, and by permitting ambiguity about the terms of the law to continue,
16 the RHC has failed to carry out or discharge its mandatory duties as alleged herein.

17 40. Petitioners are directly and beneficially interested in Respondent’s compliance
18 with all terms of the CSFRA and with all the legal duties set forth herein. As proponents of the
19 CSFRA, Petitioners will benefit from its full and correct implementation.

20 41. Petitioners have no plain, speedy, or adequate remedy other than the relief sought
21 herein. They seek a writ of mandate to compel Respondent to immediately comply with its
22 mandatory duties under the CSFRA, specifically its duty to “publicize through reasonable and
23 appropriate means” the CSFRA’s provisions.

24 **PRAYER FOR RELIEF**

25 WHEREFORE, Petitioners pray that the Court grant them the following relief:

26 1. For an alternative writ of mandate, commanding the RHC to:

27 a. Publicize through reasonable and appropriate means that the effective date of
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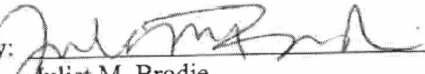
the CSFRA is December 23, 2016;

- b. Establish those rules, regulations and communications necessary to effectuate December 23, 2016 as the effective date of the CSFRA; and
- c. Train all relevant City staff that December 23, 2106 is the effective date of the CSFRA;

- 2. For an award to Petitioners of their costs of suit;
- 3. For an award to Petitioners of their reasonable attorneys' fees pursuant to California's Private Attorney General State (Cal. Civ. Proc. Code § 1021.5); and
- 4. For such further and other relief as the Court deems just and proper.

Dated: August 23, 2017

LAW FOUNDATION OF SILICON VALLEY,
STANFORD COMMUNITY LAW CLINIC,
PUBLIC INTEREST LAW PROJECT,
FENWICK & WEST LLP

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VERIFICATION

I am a party to this action, and I have read the foregoing Petition for Alternative Writ of Mandate (“Petition”) and know its contents. The matters stated in the Petition are true based on my own knowledge, except as to those matters stated on information and belief, and as to those matters I believe them to be true.

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

Executed on this 22nd day of August, 2017, at Mountain View, California.



Joan MacDonald

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

Executed on this 22nd day of August, 2017, at Mountain View, California.



Steven Chandler

FENWICK & WEST LLP
ATTORNEYS AT LAW
MOUNTAIN VIEW

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