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9 UNITED STATES DISTRICT COURT
10 SOUTHERN DISTRICT OF CALIFORNIA

11 PATRICE BAKER, GLORIA
12 COOPER, LESLIE DUDLEY,
13 LETITIA FLYNN, KATHLEEN
14 MACLEOD, EILEEN OSBORNE
15 and KHALADA SALAAM-ALAJI,
16 individuals,

17 Plaintiffs,

18 v.

19 CITY OF SAN DIEGO, a municipal
20 corporation; HOUSING
21 AUTHORITY OF THE CITY OF
22 SAN DIEGO, a public agency;
23 GEORGETTE GOMEZ, BARBARA
24 BRY, JENNIFER CAMPBELL,
25 CHRIS WARD, MONICA
26 MONTGOMERY, MARK KERSEY,
27 CHRIS CATE, SCOTT SHERMAN
28 and VIVIAN MORENO, in their
official capacities as members of the
Housing Authority and City Council
for the City of San Diego; SAN
DIEGO HOUSING COMMISSION, a
public agency; RICHARD C.
GENTRY, STEFANIE
BENVENUTO, RYAN CLUMPNER,
MARGARET DAVIS, JOHANNA
HESTER, KELLEE HUBBARD,
FRANK URTASUN and TIM
WALSH, in their official capacities as
the Board Members of the San Diego
Housing Commission; COUNTY OF
SAN DIEGO, a municipal
corporation; GREG COX, DIANNE
JACOB, KRISTIN GASPAR,

Case No. '19CV1013 JLS BLM

**COMPLAINT FOR DECLARATORY
AND INJUNCTIVE RELIEF FOR
VIOLATIONS OF:**

(1) Fair Housing Act (42 U.S.C. 3601 *et seq.*);
(2) 14th Amendment Equal Protection
(42 U.S.C. § 1983); and
(3) California Fair Employment and
Housing Act (Cal. Govt. Code § 12900)

DEMAND FOR JURY TRIAL

1 NATHAN FLETCHER and JIM
2 DESMOND, in their official
3 capacities as the Board of Supervisors
for the County of San Diego; and
DOES 1 to 50, inclusive,

4 Defendants.

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1 **INTRODUCTION**

2 1. Housing determines millions of individuals' daily life experiences:
3 who their neighbors will be, what schools their children will attend, what access
4 they will have to economic opportunities, and the general social environment in
5 which they will grow up or live. Defendants County of San Diego, City of San
6 Diego, City of San Diego Housing Authority, and San Diego Housing
7 Commission's (collectively referred to as "Defendants") combined efforts have
8 denied equal housing and created a disparate impact on minorities¹ in San Diego,
9 California, by concentrating San Diego's poorest residents in select neighborhoods,
10 all of which predominantly consist of minorities.

11 2. Defendants' concentration of low-income projects in select minority
12 neighborhoods is perpetuating housing segregation and denying equal access to
13 housing opportunities for minorities. Housing segregation perpetuates many of the
14 United States' deep-rooted problems including educational disparity, wealth
15 inequality, disproportionate crime levels, and even access to basic needs such as
16 clean water and clean air. Unsurprisingly, the San Diego neighborhoods that have
17 fallen prey to Defendants' concentration of poverty do not have access to life-
18 changing opportunities such as quality education and high-paying careers.

19 3. Defendants' combined efforts have disproportionately affected San
20 Diego neighborhoods with 80% or more minorities ("Affected Communities").
21 Encanto and Southeastern San Diego are two neighborhoods within the Affected
22 Communities: Encanto (89%) and Southeastern San Diego (94%).² Unlike the

23 _____
24 ¹ The definition for "minority" can be found in the federal guidelines for Title VII
25 of the Civil Rights Act of 1964, Equal Employment Opportunity Form EEO-1,
26 which defines "minority" using the categories "Black, Hispanic, Asian or Pacific
27 Islander, and American Indian or Alaskan Native."

28 ² Encanto Neighborhoods' demographic profile is: 41% Hispanic, 23% Black, 22%
Asian, 9% White, and 5% Other. Southeastern San Diego' demographic profile is:
84% Hispanic, 8% Black, 4% White, 2% Asian, and 2% Other. Unless otherwise
stated, the data used in this complaint regarding community demographics is
constructed from U.S. Census Bureau's American Community Survey 2010 5-year
file, Table B12001, promulgated and used by San Diego Association of

1 Affected Communities, San Diego’s city-wide demographic profile is 45% White,
2 29% Hispanic, 16% Asian, 6% Black, and 4% Other.³ For the purposes of this
3 Complaint, the “Affected Communities” are compared against San Diego
4 neighborhoods with larger than 60% White residents (hereinafter “Non-Affected
5 Communities”).

6 4. In an effort to bring economic opportunities into the Affected
7 Communities and to reverse Defendants’ unlawful actions, Plaintiffs Patrice Baker,
8 Gloria Cooper, Leslie Dudley, Letitia Flynn, Kathleen MacLeod, Eileen Osborne
9 and Khalada Salaam-Alaji, who are local residents of the Affected Communities,
10 bring this Complaint to address Defendants’ violations of the federal Fair Housing
11 Act (FHA) 42 U.S.C. 3601 *et al*, the Fourteenth Amendment’s Equal Protection
12 Clause, and California Fair Employment and Housing Act (FEHA), Cal. Gov. Code
13 §§ 12900 *et seq*.

14 5. In 1968, the United States Congress enacted the fair housing laws to
15 strike at the heart of the persistent racism that has long-plagued this country. Seeing
16 the strong correlation between housing and access to economic opportunities, the
17 federal fair housing laws were designed to tackle racism by creating and improving
18 access to adequate and affordable housing. California’s FEHA was enacted for the
19 same reasons. Accordingly, those in charge of implementing and overseeing the
20 FHA and California’s FEHA are responsible for replacing segregated
21 neighborhoods and implementing policies to create “truly integrated and balanced

22 Governments,
<https://www.sandag.org/index.asp?classid=26&fuseaction=home.classhome>.

23 ³ The race/ethnic designations used in this Complaint are the same as the ones used
24 by the federal Equal Employment Opportunity Commission and do not denote
25 scientific definitions of anthropological originals. White is “All persons having
26 origins in any of the original peoples of Europe, North Africa, or the Middle East.”
27 Black is defined as “All persons having origins in any Black racial groups of
28 Africa.” Hispanic is defined as “All persons of Mexican, Puerto Rican, Cuban,
Central or South American or other Spanish culture or origin, regardless of race.”
Asian or Pacific Islander is defined as “All person having origins in any of the
original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the
Pacific Islands. This area includes, for example, China, India, Japan, Korea, the
Philippine Islands, and Samoa.”

1 living patterns.”⁴

2 6. Defendants have far from created truly integrated communities; rather
3 their combined efforts perpetuate racial segregation and have created a disparate
4 impact on the Affected Communities in violation of FHA and California’s FEHA.
5 Defendants have done so by injecting a disproportionate number of low-income
6 projects in the Affected Communities compared to the Non-Affected Communities.

7 7. Defendant City of San Diego updated and adopted new zoning policies
8 that would max out the Affected Communities’ residential capacity, changing the
9 housing in Encanto and Southeastern San Diego from mostly single-family units to
10 now predominantly low-income, multi-family residential units. Defendant City of
11 San Diego Housing Authority (“Housing Authority”) governed and Defendant San
12 Diego Housing Commission (SDHC) used the new zoning policies to implement
13 and develop a disproportionate amount of low-income housing projects in the
14 Affected Communities. The City has also allowed Defendant County of San Diego
15 to develop a large-scale project that will combine the County’s Southeastern Live
16 Well Centers—facilities for low-income clients—in the Affected Communities.

17 8. All of these actions were done without any analysis into how they
18 would impact the already existing concentration of poverty in the Affected
19 Communities. By maxing out the residential capacity of the Affected Communities,
20 and then filling that land with a disproportionate amount low-income projects,
21 Defendants are forcing low-income residents to move and stay in the Affected
22 Communities.

23 9. Additionally, the Housing Authority governed, and SDHC
24 administered, a Voucher System that disproportionally concentrates low-income
25 minorities in the Affected Communities. As described further below, the Affected
26 Communities constitute the lowest tier of SDHC’s three-tier payment standard for

27 ⁴ Department of Housing & Urban Development, *Implementation of the Fair*
28 *Housing Act’s Discriminatory Effects Standard; Final Rule*, 78 F.R. 32 (Feb. 15,
2013).

1 rent. SDHC has not increased the payments standard for the Affected Communities
2 for more than three years and requires low-income residents to pay a larger
3 proportion of their income if they seek to move to higher-income, predominantly
4 White neighborhoods.

5 10. Although the U.S. Department of Housing and Urban Development's
6 data shows rents significantly increased during the past three years, Defendant
7 SDHC set the payment standard in the Affected Communities far *below* fair market
8 value. Keeping rent low in the Affected Communities forces low-income residents
9 to stay where rent prices are low—the Affected Communities—and prevents low-
10 income residents from integrating into the Non-Affected Communities.

11 11. Data from the San Diego Association of Governments and the U.S.
12 Census Bureau on its face reveals there is a high correlation between poverty and
13 race. Defendants' actions combined with the limited availability of affordable
14 housing has thrust a disproportionate number of low-income residents into the
15 Affected Communities creating concentrated pockets of poverty. For example,
16 while the annual median income for San Diego city-wide is \$63,198, the Affected
17 Communities continue to experience a median income much lower than the
18 surrounding neighborhoods: Southeastern San Diego (\$31,414) and Encanto
19 (\$43,668). In comparison, the Non-Affected Communities, which are largely non-
20 minority communities, enjoy median incomes such as: La Jolla (\$113,759), Carmel
21 Valley (\$118,506), Pacific Beach (\$65,916) and Mission Valley (\$64,917).

22 12. Data from State of California Tax Credit Allocation Committee
23 ("CTCAC") illustrates out of the 356 projects in the San Diego County for low-
24 income housing, only 17% of all projects were approved in the Non-Affected
25 Communities. When comparing Non-Affected Communities with predominantly
26 minority neighborhoods, such as Southeastern San Diego and City Heights,
27 received a combined total of 4,488 low-income housing units, while the Non-
28 Affected Communities like La Jolla, Ocean Beach, and Pacific Beach received

1 zero.

2 13. By concentrating low-income housing, and other similar projects, in
3 only minority neighborhoods, Defendants have perpetuated high-poverty rates, low
4 educational achievement and stunted economic development in the Affected
5 Communities, which are neighborhoods with over 80% minorities. Such a disparate
6 impact is in direct violation of state and federal fair housing laws.

7 14. The fair housing laws were created to provide neighborhoods, such as
8 the Affected Communities, with the necessary tools to create economic change.
9 However, Defendants' practices and policies have prevented the Affected
10 Communities from accessing these tools. By concentrating minorities in low-
11 income areas and not providing those communities with the tools to develop,
12 Defendants are perpetuating segregated neighborhoods in San Diego. Defendants
13 cannot continue to develop and approve projects designed to attract only the poorest
14 of San Diego without any evaluation of the impacts on minorities in the Affected
15 Communities.

16 15. Plaintiffs bring this suit to reverse the concentration of poverty the
17 Affected Communities are currently experiencing as a result of Defendants'
18 onslaught of low-income projects. This suit seeks injunctive and declaratory relief
19 to end Defendants' policies and practices that perpetuate racial segregation and
20 have created a disparate impact on the Affected Communities.

21 **JURISDICTION AND VENUE**

22 16. This Court has jurisdiction under 28 U.S.C. § 1331 because this
23 complaint involves federal questions including the Federal Fair Housing Act, 42
24 U.S.C. § 3613(a), the Fourteenth Amendment and 42 U.S.C. § 1983. This Court also
25 enjoys supplemental jurisdiction under 28 U.S.C. § 1367 for any state claims that
26 arise under the same transactions and/or occurrences.

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PARTIES

A. Plaintiffs

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3 17. Plaintiff Patrice Baker has lived in San Diego since 1956, moving here
4 with her family as a child. Growing up in the Presbyterian Church, she witnessed
5 the positive impact and equitable environment created by the members and
6 community leaders, whose work focused on the Affected Communities. Inspired to
7 continue working in her community, Patrice volunteered her time advocating for
8 quality education and mental health services for youth. Patrice worked full time for
9 a tele-communications company while raising her family as a single parent. She has
10 lived in Southeastern San Diego, Encanto, Valencia Park and is a Community
11 Outreach Director for a local non-profit. Patrice works in the Affected
12 Communities advocating for better education for the youth and to improve the
13 environment and well-being of residents in the Affected Communities.

14 18. Plaintiff Gloria Cooper has lived in San Diego since the 1950s,
15 moving here with her family as a child. She has lived in the Logan Heights, Chollas
16 View and Valencia Park neighborhoods of San Diego. She currently resides in the
17 area of Valencia Park. She is retired from a major telecommunications company
18 where she worked for 32 years. She has volunteered her time for years and served
19 on the boards of several faith-based nonprofits at the local, state, and national
20 levels. She has lent her time to civic organizations and was active in working with
21 the redevelopment and redesign of Abraham Lincoln High School in San Diego.
22 Her other volunteer work pertains to issues protecting the community and
23 affordable housing, policing, and healthcare.

24 19. Plaintiff Leslie Dudley has lived in the City of San Diego for over four
25 decades, and in Lincoln Park for the last three decades. Mrs. Dudley has been
26 elected as the Lincoln Park representative to the Chollas Valley Community
27 Planning Group (formerly known as the Encanto Neighborhoods Community
28 Planning Group) for the last six years.

1 20. Plaintiff Letitia Flynn is a native San Diego resident and, over the
2 course of 40 years, has lived in Barrio Logan, Webster and Oak Park
3 neighborhoods of the City of San Diego. She is retired employee of the County of
4 San Diego District Attorney's office. She also has lived a life of civic duty both
5 professionally and in her personal capacity, where she served on the board of
6 Coalition of Neighborhood Councils and the United African American Ministerial
7 Action Committee (UNAAMAC).

8 21. Plaintiff Kathleen MacLeod is a native San Diego resident and lived in
9 Mount Hope, Jamacha, and Encanto neighborhoods of the City of San Diego since
10 1978. She currently resides in the Encanto neighborhood. Ms. MacLeod is a retired
11 employee of the County of San Diego in public health services. She has lived a life
12 of civic duty both professionally and in her personal capacity, where she served as a
13 Peace Corps volunteer, on two San Diego Community Planning Groups, a past
14 board member of the League of Women Voters, and is currently a trustee of her
15 church.

16 22. Plaintiff Eileen Osborne has lived in San Diego since the 1950s,
17 moving here with her family as a child. She is a retired educator who taught in the
18 east side of the neighborhood in Webster Valencia Park. The school was poorly
19 funded, and something was always needed such as books and other basic supplies.
20 Ms. Osborne has lived in the Stockton, Chollas View, Lincoln Park, and Skyline
21 neighborhoods of San Diego, and presently lives in the Emerald Hills
22 neighborhood.

23 23. Plaintiff Khalada Salaam-Alaji is a native San Diego resident and, over
24 the course of more than 50 years, has lived in Mount Hope and Logan Heights
25 neighborhoods of the City of San Diego. She is a retired educator and is the founder
26 and operator of Community Preparatory School. She, along with her husband,
27 administered the Summer Food Service Program, funded by the USDA, which
28 provided free meals to low-income children ages 2 through 18 years-old at multiple

1 sites throughout the City and County of San Diego. She has lived a life of civic
2 duty both professionally and in her personal capacity, where she served on the
3 board of several Community Groups. Currently, she and her husband have joined
4 others named in this Complaint in developing and maintaining a community
5 garden.

6 **B. Defendants**

7 24. Defendant County of San Diego is a public agency of the State of
8 California. Defendant County of San Diego's Board of Supervisors is a policy-
9 making and supervisory body of the County of San Diego. Greg Cox, Dianne
10 Jacob, Kristin Gaspar, Nathan Fletcher and Jim Desmond are the current members
11 on the Board of Supervisors. These individuals are named as Defendants solely in
12 their official capacity. Defendant County oversees and administers a welfare
13 program through its "Live Well San Diego" initiative. The Board of Supervisors
14 approved the purchase of the property in the Affected Communities to construct the
15 Southeastern San Diego Live Well Center.

16 25. Defendant City of San Diego is a charter city and public agency of the
17 State of California and is responsible for overseeing and updating the "Community
18 Plans" for neighborhoods within the City of San Diego.

19 26. Defendant Housing Authority of the City of San Diego (Housing
20 Authority) governs Defendant San Diego Housing Commission (SDHC). The
21 Housing Authority consists of the nine members of the San Diego City Council.
22 The current members of the Housing Authority are Georgette Gómez, Barbara Bry,
23 Jennifer Campbell, Chris Ward, Monica Montgomery, Mark Kersey, Chris Cate,
24 Scott Sherman and Vivian Moreno. These individuals are named as Defendants in
25 this suit solely in their official capacity. The members of the Housing Authority
26 have final authority over SDHC's budget and major policy changes.

27 27. Defendant San Diego Housing Commission (SDHC) is a corporate and
28 political body established by the laws of the State of California. SDHC consists of a

1 seven-member Board of Commissioners. Stefanie Benvenuto, Ryan Clumpner,
2 Margaret Davis, Johanna Hester, Kellee Hubbard, Frank Urtasun and Tim Walsh
3 are the current members of the SDHC Board. These individuals are named as
4 Defendants in this suit solely in their official capacity.

5 28. SDHC is also managed by a “President and Chief Executive Officer,”
6 who also serves as the Housing Authority’s executive director. The current
7 President and Chief Executive Officer of SDHC is Richard C. Gentry, who is
8 named as a Defendant in this lawsuit solely in his official capacity. SDHC reviews
9 proposed changes to housing policy, property acquisitions, other financial
10 commitments, and agency operations, including allocations of resources, revisions
11 to personnel policies and annual administrative and operating budgets. The
12 references to SDHC in this complaint also include the actions of the Executive
13 Director and SDHC Board of Commissioners in their official capacity.

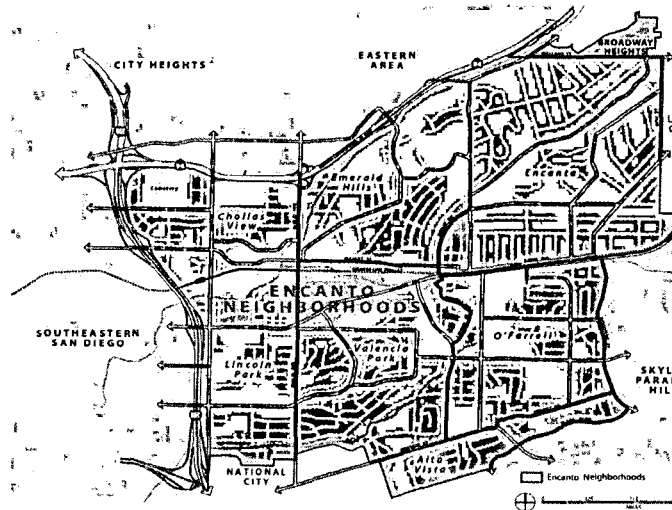
14 **GENERAL ALLEGATIONS**

15 **A. Background on Encanto Neighborhoods**

16 29. Encanto is one of the community planning areas within the Affected
17 Communities. Encanto is a collection of ethnically diverse neighborhoods and is
18 one of the first communities within the City of San Diego where African-
19 Americans, Latin-Americans, and Asian-Americans could own land, businesses,
20 and homes. Currently, the Encanto Neighborhoods have 47,361 residents, with a
21 demographic profile that is largely minorities: 41% Hispanic, 23% Black, 22%
22 Asian, 9% White, and 5% Other.

23 30. The Encanto Neighborhoods can be seen in the map below:

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10 31. The Encanto Community Plan,⁵ which is described by the City of San
11 Diego as the “comprehensive policy guide for the physical development of the
12 community,” describes the existing use of Encanto land as follows:

Existing Land Uses in the Encanto Neighborhoods		
Community Plan Land Use	Acres	Percent
Single-family Housing	1,950	65%
Multifamily Housing	159	5%
Community Facilities	248	8%
Parks and Open Space	267	9%
Commercial Uses	58	2%
Industrial Uses and Utilities	78	3%
Holy Cross Cemetery	45	2%
Vacant Land	190	6%
TOTAL	3,000	100%

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25 ⁵ Unless otherwise specified, all information regarding the background for the
26 Affected Communities is obtained from the neighborhoods’ Community Plan,
27 which according to Defendant City of San Diego is the comprehensive policy guide
28 for the physical development of the community. Individual Community Plans are
accessible at, <https://www.sandiego.gov/planning/community/profiles>.

1 32. Approximately 70% of all land used in Encanto is for residential
2 property, while 3% of the land is used for industrial uses and utilities, and 2% for
3 commercial purposes. Encanto’s existing housing unit inventory is approximately
4 13,223 units. Defendant City of San Diego updated Encanto’s Community Plan to
5 increase the number of units by 7,874 to a total of 21,097 housing units, which is
6 Encanto’s current “build-out” capacity, which is the maximum holding capacity of
7 the land for residential units.

8 33. Policy P-EP-22 in Encanto’s Community Plan states the City will
9 “[a]dopt policies, financial incentives and requisite planning tools to achieve a 1/3
10 very low and low income to 2/3 market rate development ratio to increase the area
11 median income, which is fundamental for a flourishing and diverse business
12 community.”

13 34. Additionally, the types of units will drastically change in Encanto over
14 the following years. Encanto currently has 3,333 multi-family units (25% of total
15 units) and 9,846 single-family units (75%). Encanto’s Community Plan was
16 updated such that the only new units to be developed will be 8,077 multifamily
17 units. Therefore, Encanto residents will see a drastic shift towards more
18 predominantly permanently single-family residences to large multi-family
19 structures: 12,070 multi-family units (57% of total units) and 9,027 single-family
20 units (43%).

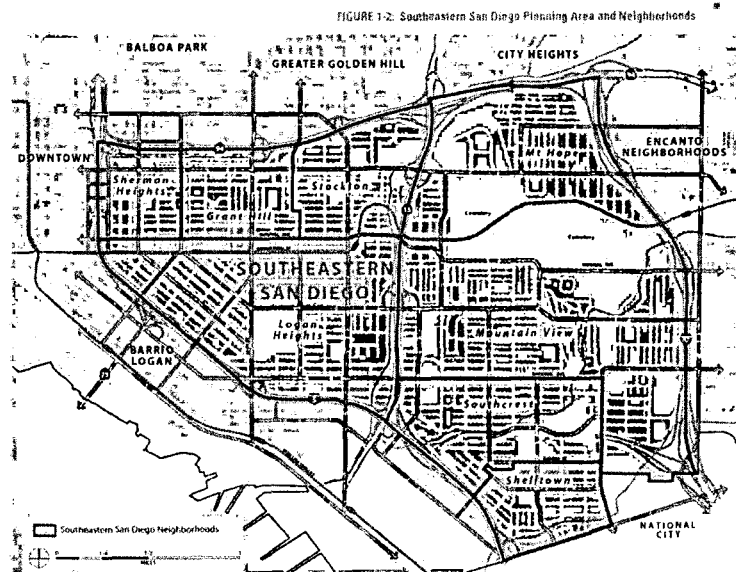
21 35. Given the large number of residential land and lack of industrial
22 development, Encanto’s Community Plan states: “Industrial areas should be
23 developed as high-tech industrial business park or support services uses along and
24 Market Street and Euclid Avenue and Federal Boulevard.” (Encanto Community
25 Plan, page 4-2). This same area is the present site for Defendant County of San
26 Diego’s Live Well Center, which is a massive development project to combine the
27 County’s facilities for low-income residents.

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1 36. Regarding Encanto's economic profile, Encanto residents suffer from
2 high poverty rates, with 22% of individuals living below the poverty line. In fact,
3 Encanto households earn approximately \$20,000 lower than City of San Diego's
4 median incomes: \$43,668 (Encanto) compared to \$63,586 (City of San Diego).

5 **B. Background on Southeastern San Diego**

6 37. Southeastern San Diego is another community planning area in the
7 Affected Communities. Southeastern San Diego is a collection of several
8 neighborhoods including, Sherman Heights, Grant Hill, Stockton, Logan Heights,
9 Mount Hope, Mountain View, Southcrest, and Shelltown. The neighborhoods
10 making up Southeastern San Diego can be seen in the map below:



22 38. According to Southeastern San Diego's Community Plan, there are
23 approximately 57,000 residents, with a demographic profile of mostly Hispanic
24 residents making up 84% of the population; the next largest group is Black
25 residents with 8%, 4% White residents, and 2% Asian residents.

26 39. Like Encanto, the existing land use in Southeastern San Diego is
27 primarily residential. The existing land use is broken down as follows in the
28 Community Plan for Southeastern San Diego:

Existing Land Uses in the Southeastern San Diego		
Community Plan Land Use	Acres	Percent
Single-family Housing	668	36%
Multifamily Housing	454	22%
Community Facilities	180	10%
Parks and Open Space	111	4%
Commercial Uses	164	8%
Industrial Uses and Utilities	133	5%
Cemeteries	213	14%
Vacant Land	65	1%
TOTAL	1,867	100%

40. Similar to Encanto, Southeastern San Diego is primarily used for single and multi-family homes. The existing inventory of housing units in Southeastern San Diego is 15,028 units. Southeastern San Diego's Community Plan projects to increase this number by 3,605 for a total of 18,633 units, which is Southeastern San Diego's "build out" capacity, which is the maximum holding capacity for residential units in the community.

41. As seen in Encanto's Community Plan, Defendant City of San Diego updated Southeastern San Diego's Community Plan to create a disproportionate amount of multi-family units in the area. Currently, Southeastern San Diego has 9,397 multi-family units (63% of total units) and 5,631 single-family units (37%). The Community Plan intends to add 3,474 multi-family units and only 131 single-family units. This means Southeastern San Diego will now house 12,871 multi-family units (69%) and 5,762 single-family units (31%).

42. Regarding Southeastern San Diego's economic profile, 34% of residents are living below the poverty line. This number is nearly three times the rate found in San Diego County, where only 12% of residents are considered to be

1 living below the poverty line.

2 43. Southeastern San Diego's median income is also substantially lower
3 than the median income for the City of San Diego. The annual median income for
4 Southeastern San Diego is \$31,414, which is less than half of City of San Diego's
5 median income at \$63,586.00. Defendant City of San Diego even acknowledges
6 this fact in Southeastern San Diego's current Community Plan: "Households in
7 Southeastern San Diego also have substantially lower incomes—at \$33,000—just
8 half of the citywide median."

9 **C. U.S. Census Bureau of Information's Data Illustrates There is a**
10 **Concentration of Poverty in Select San Diego Neighborhoods That are**
11 **Predominantly Minorities.**

12 44. The data from the U.S. Census Bureau shows on its face there is a high
13 correlation between poverty and race. The combination of Defendants' actions and
14 the limited availability of affordable housing has thrust a disproportionate number
15 of low-income residents into the Affected Communities creating concentrated
16 pockets of poverty. The United States Census Bureau (Census Bureau) tracts
17 several social indicators in an area including racial demographics and percent of
18 individuals/families below the poverty line.⁶

19 45. Within the County of San Diego area material to this Complaint, there
20 are 150 census tracts. The following map depicts the mean income based on census
21 tract in the City of San Diego. The Affected Communities include the
22 neighborhoods located within the white rectangle:

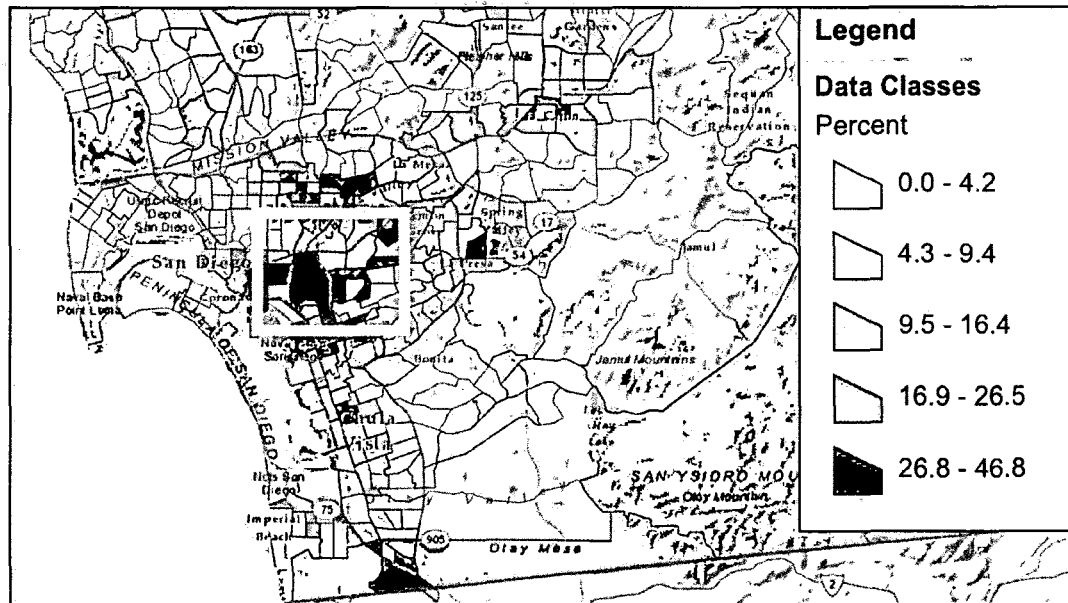
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⁶ The Census Bureau does this by dividing each state in the country with unique census tract numbers and researching each specific area. Additionally, the tables in this section were generated using the U.S. Census Bureau's American Fact Finder's Census Data for the Affected Communities, which can be accessed at https://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ACS_09_5YR_B17015&prodType=table.



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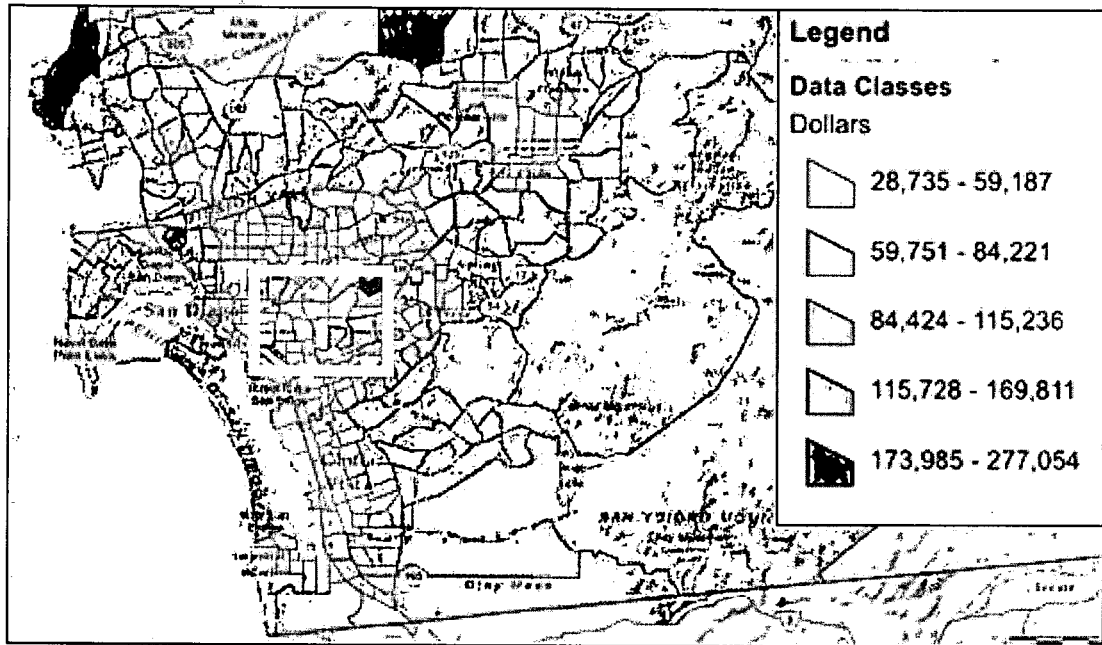
12 46. The graph above and corresponding Census data illustrate the areas
13 with the largest percent of families below the poverty line are in select
14 neighborhoods including the Affected Communities: Southeastern San Diego
15 (34%) and Encanto (22%). Other neighborhoods with more than 80% minorities
16 residents also experience higher rates of residents living below the poverty line:
17 City Heights (29%) and Barrio Logan (41%).

18 47. The Census data also demonstrates neighborhoods in the Non-Affected
19 have significantly less families below the poverty line. All of the areas above
20 shaded in yellow have either very little or no families below the poverty line
21 whatsoever. For example, in La Jolla and Carmel Valley, two neighborhoods within
22 the Non-Affected Communities, only 4% of residents are living below the poverty
23 line. This is completely disproportional to the concentration of poverty in the
24 Affected Communities.

25 48. Another graph from the Census Bureau showing the mean (or average)
26 income of each census tract also illustrates this concentration of poverty in select
27 neighborhoods:

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49. The white rectangle above represents the neighborhoods within the Affected Communities. The graph above and corresponding Census data show while many surrounding areas in the City of San Diego have an average household income between \$63,998 to \$118,506. The poorest communities, including the neighborhoods in the Affected Communities, have an average household income between \$26,761 to \$43,668, which is significantly less than the Non-Affected Communities.

50. The Census information illustrates statistically there is a concentration of San Diego’s poverty in the Affected Communities, which are predominantly minority communities.

D. Defendant City of San Diego’s Community Plans Create a Disproportionate Number of “Affordable” Units in the Affected Communities

51. Defendant City of San Diego was able to concentrate poverty in the Affected Communities by using the City’s “Community Plans.” The City has a Community Plan for each neighborhood in San Diego; the City describes these plans as a “comprehensive policy guide for the physical development of the

1 community[.]”

2 52. From 2014 to 2016, Defendant City of San Diego updated community
 3 plans for eight neighborhoods, including the Affected Communities, to increase
 4 capacity for new housing units. The Community Plans for the Affected
 5 Communities were approved by the City’s Planning Commission (PC – 4740) and
 6 then adopted by City Council (R-310077 and R-310078).

7 53. According to the 2018 Housing Inventory Annual Report for the City
 8 of San Diego, Defendant City adopted eight comprehensive Community Plan
 9 updates and two focused Community Plan amendments, which added capacity for
 10 nearly 30,000 residential units to select neighborhoods in San Diego. The report
 11 included a table identifying which neighborhoods were going to receive additional
 12 units. The community plans underlined represent the Affected Communities.

Community Plan	Adoption Year	Additional Housing Capacity (Units)	Percent Below Poverty	Percent White (Non-Hispanic/Latino)
Uptown	2016	0	12%	73%
Golden Hill	2016	45	17%	45%
<u>Chollas Triangle (Eastern Area)</u>	<u>2015</u>	<u>75</u>	<u>17%</u>	<u>11%</u>
Ocean Beach	2015	102	13%	80%
<u>San Ysidro</u>	<u>2016</u>	<u>1,760</u>	<u>29%</u>	<u>3%</u>
North Park	2016	2,275	17%	54%
<u>Southeastern San Diego</u>	<u>2015</u>	<u>3,010</u>	<u>34%</u>	<u>4%</u>
<u>Otay Mesa</u>	<u>2014</u>	<u>6,374</u>	<u>7%</u>	<u>11%</u>
<u>Encanto</u>	<u>2015</u>	<u>7,874</u>	<u>22%</u>	<u>7%</u>
Grantville (Navajo)	2015	8,275	7%	60%
TOTAL		29,790		

1 54. The table above demonstrates out of the nearly 30,000 housing units,
2 19,093 of those units will be placed in the Affected Communities, whereas the
3 Non-Affected Communities will receive only 10,697. In other words, the Affected
4 Communities will receive almost double the number of units than would the Non-
5 Affected Communities.

6 55. For example, neighborhoods in Uptown San Diego and Ocean Beach,
7 which are largely White communities, respectively received zero (0) and 102
8 housing units. In comparison, Encanto by itself will receive a substantial portion of
9 housing units with 7,874 additional housing units; approximately 26% of all
10 housing units added in San Diego. Southeastern San Diego's Community Plan saw
11 a similar increase with an additional 3,010 units.

12 56. Based on Defendant City of San Diego updated Community Plans,
13 Encanto and Southeastern San Diego—merely two neighborhoods out of ten—will
14 receive more housing units (10,884) than all eight Non-Affected Communities
15 combined (10,697).

16 57. The 2018 Housing Annual Report states Defendants intend to
17 “streamline” the development for these additional units. To accomplish this, “in
18 many locations, the plan allows ministerial ‘by-right’ development for residential
19 and mixed-use projects that comply with the updated zoning, land use designation,
20 and applicable regulations.” Defendant City also created an “expedited
21 environmental review process” where “[p]rojects requiring CEQA review may be
22 able to tier-off the Community Plan Updates Environmental Impact Report, where
23 projects will simply need to complete a ‘compliance checklist.’” Defendant City
24 admits “[t]his will substantially reduce the amount of analysis that needs to be
25 completed by applicants.”

26 58. Since 2015, when Southeastern San Diego's community plan was
27 updated by Defendant City, 2,461 housing units specifically designed for low-
28 income residents have been added in Southeastern San Diego. In total, Southeastern

1 San Diego was expected to receive 3,010 housing units. This means the low-income
2 housing units currently represent at least 81% of the additional housing units added
3 in Southeastern San Diego. Defendants' actions will create a disparate impact on
4 the Affected Communities because it will reverse the current housing scheme from
5 predominantly single-family housing units to multi-family, low-income units that
6 will continue to concentrate poverty in the Affected Communities.

7 59. Additionally, Defendant City of San Diego is responsible for
8 collecting development impact fees (DIF) from project developers in communities
9 that are near "build out." DIFs are collected to ameliorate the effects of maxing out
10 the residential capacity in a neighborhood. Defendant City updated the community
11 plans for the Affected Communities bringing them to their "build out" capacity.

12 60. The City has set DIF standards for the Affected Communities
13 significantly lower than the standards for the Non-Affected Communities.
14 Moreover, the City has a pattern and practice of either waiving or deferring the
15 collect of DIFs for the additional housing units in the Affected Communities. The
16 non-collection of these fees will negatively influence the quality of life and creates
17 unsafe living conditions. Without the proper collection of fees, there will not be
18 enough revenue for public infrastructure, nor will the Affected Communities be
19 able to create services that attract business that would provide adequate jobs. The
20 non-collection of DIFs in the Affected Communities is another tool the City has
21 used to perpetuate the concentration of poverty.

22 61. Defendant City has specifically carved large sections of the Affected
23 Communities to be used for low-income housing and other projects intended to
24 attract low-income residents.

25 **E. Defendant San Diego Housing Commission Provides a Disproportionate**
26 **Amount of Funding to Low-Income Projects Located in the Affected**
Communities.

27 62. Defendant San Diego Housing Commission (SDHC) has leveraged
28 federal funding to continue to concentrate poverty in the Affected Communities.

1 63. Defendant SDHC obtains federal funding from the U.S. Department of
2 Housing and Urban Development (HUD) under the Home Investment Partnership
3 Program where funds are granted to Defendant City of San Diego, governed by
4 Defendant City of San Diego Housing Authority, and administered by Defendant
5 SDHC. The funds are intended to facilitate the construction, acquisition, or
6 rehabilitation of affordable rental housing for San Diego's extremely low-income
7 (0–30% of AMI [Area Median Income]), very low-income (31–50% of AMI) and
8 low-income (51–80% of AMI) households by providing financing at below market
9 interest rates and deferred loan repayment.

10 64. Defendant SDHC announces the availability of funds through the
11 “Notice of Funding Availability” (NOFA). Developers may apply for funds and
12 SDHC staff reviews the responsive proposals. Final funding recommendations are
13 presented to Defendants Housing Authority and SDHC.

14 65. Developers are encouraged to design projects with modest design and
15 features. Specifically, developers are told to avoid luxury/higher-end features such
16 as granite countertops, high-end stainless-steel appliances, and swimming pools
17 because such features contribute to the funding gap. Such features are not eligible
18 costs for SDHC funds. In addition, SDHC funds cannot be used to fund non-
19 residential uses such as commercial space or off-site parks.

20 66. Each proposal is required to satisfy Minimum Threshold
21 Requirements, which includes requirements such as, the proposed project must
22 provide a substantial number of low-income units and the project must maintain
23 these units for a minimum of 55 years, and for some projects a minimum of 65
24 years.

25 67. If the project meets all of the Minimum Threshold Requirements
26 (described above), the proposal can earn up to 100 priority points. A minimum of
27 65 priority points is required to obtain funding. Projects are given 35 priority points
28 if the project is “Located in a census tract with a low-income concentration of less

1 than 41 percent.” Projects are given an additional 15 priority points if the project is
2 an “Economies of Scale,” which is defined as “projects consisting of 60 or more
3 units.”

4 68. SDHC has the right and ability to reject any and all submittals,
5 including rejection of proposals that may rank high in priority points relative to
6 other proposals. SDHC has sole discretion to approve projects for tax credits.

7 69. Defendant City of San Diego Housing Authority (“Housing
8 Authority”) has awarded more than \$53.1 million since 2014 towards the
9 construction or rehabilitation of 843 affordable rental housing units for low-income
10 San Diegans. Overall, since 2008, Defendant Housing Authority has partnered with
11 developers for the new construction of 4,136 low-income rental housing units,
12 including permanent supportive housing, and the rehabilitation of 3,509 low-
13 income rental housing units.

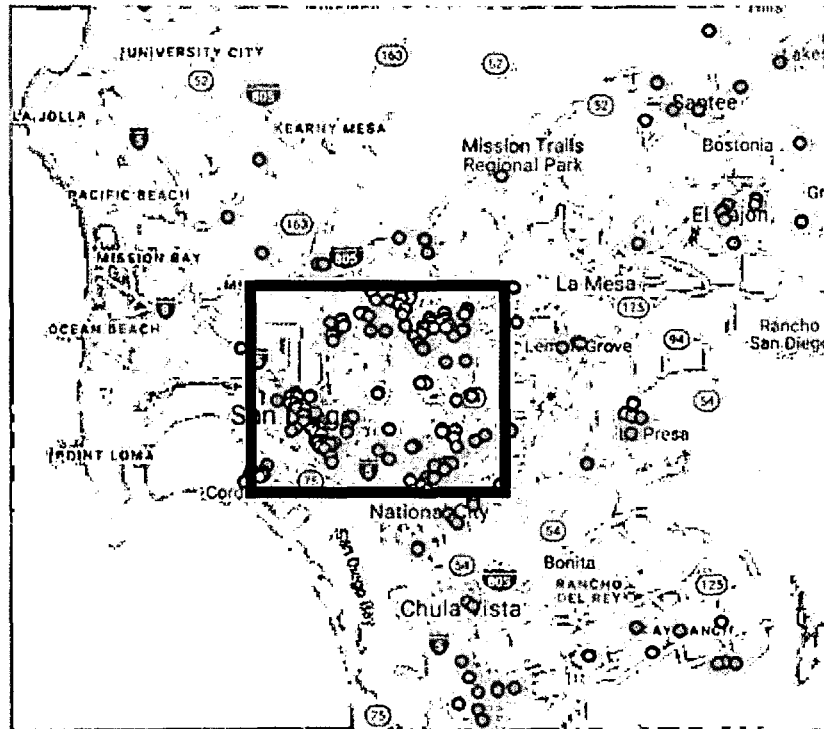
14 70. Since 2015, 2,385 low-income housing units have been added to
15 Southeastern San Diego. This means of the 4,136 low-income rental units
16 Defendant SDHC funded, approximately 58% of those units were placed in
17 Southeastern San Diego, a community known to be predominantly minorities.
18 Defendant SDHC also funded a disproportionate amount of low-income projects in
19 Encanto compared to the Non-Affected Communities.

20 **F. The Affected Communities Receive a Disproportionate Amount of Low-**
21 **Income Housing Projects**

22 71. The California Tax Credit Allocation Committee (TCAC) has
23 developed a map displaying the location of all existing multifamily housing
24 projects developed using Low-Income Housing Tax Credits in California. This map
25 and corresponding data shows from 2016 to 2017, twenty-six (26) projects were
26 granted federal tax credits for Low-Income Housing in Southeastern San Diego.
27 The data provided by TCAC dates as far back as 1989; however, there are *zero*
28 listed projects in several ZIP codes, which are predominantly White (non-

1 minorities): La Jolla (92037), Point Loma (92106), Ocean Beach (92107) and
2 Pacific Beach (92109).

3 72. The map below shows the projects are concentrated in the Affected
4 Communities which are located within the red rectangle:



18 73. A closer look at the map shows a majority of the projects are located in
19 the Affected Communities or immediate surrounding communities:

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<u>Zip Code</u>	<u>Amount of Projects</u>	<u>Amount of Low-Income Units</u>	<u>Percent White (Non-Hispanic Or Latino)</u>
<u>92139</u>	<u>1</u>	<u>443</u>	<u>12%</u>
91942	1	59	64%
92010	1	77	72%
92019	1	142	70%
92075	1	10	77%
92110	1	84	67%
92117	1	196	62%
92131	1	105	62%
92024	2	29	78%
92065	2	130	71%
92103	2	57	73%
92021	3	397	62%
92040	3	235	75%
92120	3	242	72%
<u>92114</u>	<u>4</u>	<u>228</u>	<u>9%</u>
92008	4	353	73%
92009	7	934	76%
92071	7	747	74%
92118	7	98	80%
<u>91950</u>	<u>8</u>	<u>1,592</u>	<u>9%</u>
<u>92173</u>	<u>9</u>	<u>1,364</u>	<u>3%</u>
92064	9	636	69%
92130	10	735	63%
<u>92154</u>	<u>11</u>	<u>1,717</u>	<u>13%</u>
<u>92113</u>	<u>26</u>	<u>2,385</u>	<u>5%</u>
<u>92105</u>	<u>42</u>	<u>1,875</u>	<u>12%</u>

1 75. In total, 101 projects were approved in the Affected Communities,
2 where only 66 were approved in the Non-Affected Communities. In the 101
3 projects in the Affected Communities, an additional 9,604 low-income housing
4 units were built, whereas only 5,266 low-income housing units were approved in
5 the Non-Affected Communities.

6 **G. Defendant San Diego Housing Commission Has Disproportionately**
7 **Impacted Section 8 Vouchers in the Affected Communities.**

8 76. As described above, Defendant San Diego Housing Commission
9 (SDHC) receives federal funding and is in charge of implementing HUD's Section
10 8 Housing Choice Vouchers ("Section 8 Vouchers").

11 77. Defendant SDHC is engaged in the business of owning, leasing, and
12 managing more than 3,500 rental housing units, including 189 federal public
13 housing units, and administering the Section 8 program. Among the SDHC-owned
14 units 1,366 former public housing units for which HUD transferred full ownership
15 and operating authority to SDHC in 2007, at which point SDHC provided the
16 residents with Section 8 vouchers.

17 78. Each year Defendant SDHC was notified by HUD it was identified as
18 a "Small Area Fair Market Rent" (SAFMR). According to the SAFMR "Final
19 Rule," "the main benefit of SAFMRs is that, through setting rental subsidy amounts
20 at a more local level, assisted households will be more able to afford homes in areas
21 of high opportunity than under current policy. Such moves are expected to benefit
22 both individual households, for example, through access to better schools or safer
23 neighborhoods, and areas as a whole *through reducing concentrated*
24 *neighborhood poverty.*"⁷

25 79. In the purpose of the Regulatory Action section of the "Final Rule,"
26 HUD addresses the purpose behind SAFMRs was to decrease the concentration of

27 ⁷ Department of Housing and Urban Development, Establishing a More Effective Fair Market Rent System; Using
28 Small Area Fair Market Rents in the Housing Choice Voucher Program Instead of the Current 50th Percentile FMRs,
81 Fed. Reg. 80567, 80569 (emphasis added).

1 poverty and racial segregation within the Section 8 program. HUD explains how its
2 previously existing efforts to address high concentration of voucher holders by
3 raising the level of fair market rent from the 40th to the 50th percentile “has not
4 been targeted to areas of opportunity, and consequently, this formula has not proven
5 effective in addressing the problem of concentrated poverty and economic and
6 racial segregation in neighborhoods.” *Id.*

7 80. The Final Rule was aimed at aligning the Section 8 program with
8 HUD’s statutory mandates to ensure fair housing and avoid contributing to
9 concentrated poverty. SAFMRs increase the share of households that can use their
10 vouchers to access rental units in low-poverty areas, instead of in racially
11 segregated areas with high concentrations of poverty.

12 81. The City of San Diego was chosen as a SAFMR because of its high
13 concentration of voucher holders living in concentrated low-income areas relative
14 to all renters within that area. Defendant SDHC’s use of a single payment standard
15 across each metropolitan area contributed to this concentration of poverty, because
16 the homes affordable to voucher holders were concentrated in a limited number of
17 neighborhoods with low rent.

18 82. Each year since San Diego was identified in the SAFMR Federal
19 Register Notice, SDHC has failed to increase its payment standard to align with the
20 zip-code based fair market rent.

21 83. Defendant SDHC’s 2019 payment standards are not based on current
22 fair market rents. The payment standards are set significantly below fair market
23 rent.

24 84. Defendant SDHC’s prior payment standards dated February 15, 2018,
25 were not based on fair market rents. The payment standards were set below fair
26 market rents.

27 85. Defendant SDHC’s prior payment standards dated January 9, 2018,
28 were not based on fair market rents. The payment standards were set below fair

1 market rents.

2 86. Defendant SDHC's prior payment standards dated December 7, 2017,
3 are identical to SDHC's payment standards dated January 9, 2018. These payment
4 standards were not based on fair market rents, and are in fact set significantly below
5 fair market rent.

6 87. In 10 San Diego zip codes (underlined in the table below), including
7 the Affected Communities, Defendant SDHC failed to increase the payment
8 standard for more than three years, despite HUD data showing that rents
9 significantly increased during that time. The payment standard in effect in 2015
10 remained in effect until January 1, 2019, and will remain in effect until voucher
11 participants' next biannual recertification. In these 10 zip codes, the payment
12 standard was set below fair market rents, and remain below fair market rent.

Zip Code	2015 SDHC Payment Standard	2016 SDHC Payment Standard	2017 SDHC Payment Standard	2018 SDHC Payment Standard	2018 HUD Fair Market Rent	2019 SDHC Payment Standard	2019 HUD Fair Market Rent
92037	\$1,564	\$1,564	\$1,564	\$1,740	\$2,220	\$1,810	\$2,310
<u>92102</u>	<u>\$1,304</u>	<u>\$1,304</u>	<u>\$1,304</u>	<u>\$1,304</u>	\$1,570	<u>\$1,356</u>	\$1,580
<u>92103</u>	<u>\$1,304</u>	<u>\$1,304</u>	<u>\$1,304</u>	<u>\$1,304</u>	\$1,930	<u>\$1,630</u>	\$2,050
<u>92104</u>	<u>\$1,304</u>	<u>\$1,304</u>	<u>\$1,304</u>	<u>\$1,304</u>	\$1,610	<u>\$1,356</u>	\$1,710
<u>92105</u>	<u>\$1,304</u>	<u>\$1,304</u>	<u>\$1,304</u>	<u>\$1,304</u>	\$1,570	<u>\$1,356</u>	\$1,470
92108	\$1,304	\$1,304	\$1,304	\$1,740	\$2,430	\$1,810	\$2,680
92109	\$1,304	\$1,304	\$1,304	\$1,567	\$2,180	\$1,630	\$2,310
92111	\$1,304	\$1,304	\$1,304	\$1,567	\$1,760	\$1,630	\$1,840
<u>92113</u>	<u>\$1,304</u>	<u>\$1,304</u>	<u>\$1,304</u>	<u>\$1,304</u>	\$1,570	<u>\$1,356</u>	\$1,420
<u>92114</u>	<u>\$1,304</u>	<u>\$1,304</u>	<u>\$1,304</u>	<u>\$1,304</u>	\$1,570	<u>\$1,356</u>	\$1,470
<u>92115</u>	<u>\$1,304</u>	<u>\$1,304</u>	<u>\$1,304</u>	<u>\$1,304</u>	\$1,570	<u>\$1,356</u>	\$1,640

1	<u>92116</u>	<u>\$1,304</u>	<u>\$1,304</u>	<u>\$1,304</u>	<u>\$1,304</u>	\$1,356	<u>\$1,356</u>	\$1,720
2	92130	\$1,564	\$1,564	\$1,564	\$1,740	\$2,500	\$1,810	\$2,910
3	<u>92154</u>	<u>\$1,304</u>	<u>\$1,304</u>	<u>\$1,304</u>	<u>\$1,304</u>	\$1,356	<u>\$1,356</u>	\$1,790
4	<u>92173</u>	<u>\$1,304</u>	<u>\$1,304</u>	<u>\$1,304</u>	<u>\$1,304</u>	\$1,570	<u>\$1,356</u>	\$1,490

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6 88. In addition to the rates being set far below the fair market value,
7 Defendant SDHC requires Section 8 program participants to pay up to 50 percent of
8 their income towards rent if they wish to live in a higher-income, predominantly
9 White zip codes (*i.e.* Non-Affected Communities), imposing a severe housing cost
10 burden on these families. Federal best practices identify families that pay more than
11 30 percent of their income towards rents as rent burdened and in an unstable
12 housing situation. Paying 50 percent of one’s income toward rent results in housing
13 instability and an increased risk of eviction, particularly for low-income families
14 and individuals on a fixed income.

15 89. Defendant SDHC knew its payments standard setting policies and
16 practices disproportionately harmed and continue to harm the Affected
17 Communities. Defendant SDHC’s own data shows that minorities are
18 overrepresented among Section 8 participants, that the majority of Section 8
19 participants reside in high-poverty, racially segregated neighborhoods, and that
20 SDHC’s payment standards render units in low-poverty, predominantly White
21 neighborhoods inaccessible to Section 8 participants.

22 90. Defendants have tracked the effectiveness of the Section 8 program at
23 deconcentrating poverty and addressing racial segregation, and are aware its
24 payment standards further, rather than ameliorate, racial segregation.

25 91. SDHC requires families that move to the low-poverty, predominantly
26 White areas to pay a higher percentage (50 percent) of their income towards rent.
27 SDHC did not increase the rent burden for the high-poverty, racially segregated
28 areas. SDHC knew that increase the rent burden in the Non-Affected Communities.

1 SDHC has tracked the effectiveness of its payment standards and rent burden policy
2 at deconcentrating poverty and addressing racial segregation, and has been aware
3 that the policies further racial segregation.

4 **H. Defendant City of San Diego Authorized Defendant County of San Diego**
5 **to Develop Southeastern San Diego Live Well Center in the Affected**
6 **Communities**

7 92. The concentration of poverty in the Affected Communities left low-
8 income residents with limited economic opportunities. Instead of making
9 affirmative changes to the housing policies in San Diego, Defendant City continues
10 to concentrate low-income projects in the Affected Communities. For example,
11 recently, Defendant City encouraged and allowed Defendant County to develop a
12 large-scale project intended to attract low-income residents in the Affected
13 Communities: The Southeastern San Diego Live Well Center (Live Well Center).

14 93. The project is intended to replace outdated County facilities and
15 concentrate all low-income facilities into a single regional center. The proposed
16 project will perpetuate the concentration of poverty the City has already placed in
17 the Affected Communities.

18 94. The City endorsed the County's project without conducting any
19 analysis regarding how this would affect the concentration of poverty that is
20 currently placed in the Affected Communities. The City plans to transfer ownership
21 of the Tubman-Chavez Center, a local community center the City owns, to facilitate
22 the County's construction of the Live Well Center.

23 95. Defendant City's action in encouraging and endorsing the Live Well
24 Center be located in Encanto violates its duty to implement Encanto's Community
25 Plan. Encanto's Community Plan explicitly states the City intends to develop "high-
26 tech industrial" projects along Market Street and Euclid Avenue in Encanto.
27 Instead, a County facility for low-income clients—the Live Well Center—is
28 projected to occupy this area on the corner of Market Street and Euclid Avenue.

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1 96. The Live Well Center is yet another example of Defendants' failure to
2 create totally integrated neighborhoods in the City of San Diego. Instead of
3 conducting proper research and analysis regarding the Live Well Center's impact
4 on the Affected Communities, Defendants continue to concentrate low-income
5 projects in the Affected Communities. This project will perpetuate the disparate
6 impact and concentration of poverty already seen in the Affected Communities.

7 97. Defendants are responsible for the concentration of poverty and
8 limited access to economic opportunities in the Affected Communities. Developing
9 facilities for low-income residents is not a substitute for creating truly integrated
10 neighborhoods. In fact, Defendant City's actions regarding the Tubman-Chavez
11 center have encouraged and endorsed the County to continue with the Live Well
12 Center even though it is intended to attract low-income residents. The Live Well
13 Center is not in accordance with land policies set out in Defendant City's Encanto
14 Community Plan.

15 98. Defendants have failed to address the foreseeable disparate impact this
16 will have on minorities in the Affected Communities.

17 **FIRST CAUSE OF ACTION**

18 **(Against All Defendants – Violations of Federal Fair Housing Act)**

19 99. Plaintiffs incorporate all previous paragraphs as if fully set forth
20 herein.

21 100. Plaintiffs are residents of the Affected Communities and members of a
22 class protected under the Fair Housing Act.

23 101. Defendant City of San Diego, Defendant Housing Authority, and
24 Defendant SDHC's actions violate 42 U.S.C. § 100.500(g) because, as described
25 above, Defendants' actions disproportionately burdened and created a disparate
26 impact on Affected Communities (communities with 80% or higher minorities)
27 compared to Non-Affected Communities (higher than 60% White).

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1 the color of the law by either approving, ratifying and/or implementing official
2 decisions to concentrate poverty and segregate minorities in select neighborhoods
3 in San Diego.

4 108. Defendants City of San Diego, County of San Diego, Housing
5 Authority and SDHC's failed to provide adequate training policies to prevent its
6 members from violating federal and state housing laws and the 14th Amendment.
7 Defendants were deliberately indifferent to the substantial risk that its policies were
8 inadequate to prevent violation of law by its members.

9 109. For the reasons stated above, Defendants' actions have actually and
10 proximately caused a concentration of poverty in the Affected Communities, which
11 has created a disparate impact on Plaintiffs and other local residents of the Affected
12 Communities. Accordingly, this claim is actionable under 42 U.S.C. § 1983.

13 110. Defendants' actions of concentrating poverty and minorities in select
14 neighborhoods in San Diego violates 42 U.S.C. § 1983, which requires Defendants
15 to give minority citizens of the United States the same rights enjoyed by all other
16 citizens including equal access to affordable and adequate housing.

17 **THIRD CAUSE OF ACTION**

18 **(Against All Defendants - Violation of California**
19 **Fair Employment and Housing Act (FEHA))**

20 111. Plaintiffs incorporate all previous paragraphs as if fully set forth
21 herein.

22 112. California Fair Employment and Housing Act (FEHA) prohibits
23 housing discrimination based on race, religious creed, color, national origin,
24 ancestry, physical disability, mental disability, medical condition, genetic
25 information, marital status, sex, gender, gender identify, gender expression, age, or
26 sexual orientation. Cal. Gov. Code §§ 12920, 12955.

27 113. California Government Code § 12955.8(b) authorizes a claim for
28 housing discrimination irrespective of intent, when the alleged act or omission has

1 the effect of discriminating on the basis of race, color, national origin, or ancestry.

2 114. Discrimination includes “the provision of segregated or separated
3 housing accommodation.” Cal. Gov. Code § 12927(c)(1).

4 115. SDHC is governed by the Housing Authority for the City of San
5 Diego. SDHC is engaged in the business of owning, leasing, and managing more
6 than 3,500 rental housing units, and administering the Section 8 program.

7 116. SDHC has a mandatory legal duty to comply with FEHA. By setting
8 and enforcing payment standards in a way that restricts housing opportunities and
9 perpetuates discrimination in the form of racial segregation, SDHC has failed and
10 refused to carry out that duty.

11 117. SDHC’s actions in setting and enforcing payment standards below fair
12 market rent harms the Affected Communities—disproportionally racial
13 minorities—by excluding them from accessing available rental units in
14 predominantly White, low-poverty neighborhoods, and restricting them to rental
15 units in high-poverty, racially segregated neighborhoods. SDHC’s actions are
16 discriminatory and perpetuate racial segregation in the City of San Diego in
17 violation of FEHA.

18 118. SDHC’s payment standard setting policies and practices
19 disproportionately harm racial minorities because in San Diego, racial minorities
20 are overrepresented among Section 8 participants.

21 119. At all times relevant to this action, SDHC had the ability to comply
22 with FEHA and has failed to do so.

23 120. Unless compelled by this Court to comply with FEHA and to refrain
24 from setting payment standards in a way that perpetuates racial segregation in the
25 City of San Diego, SDHC will continue to refuse to comply with FEHA and will
26 continue to violate FEHA.

27 121. SDHC’s actions discriminate against Plaintiffs in violation of Cal.
28 Gov. Code § 12900 *et seq.*

1 122. Plaintiffs have no plain, speedy, or adequate remedy at law other than
2 the relief requested in this Complaint for declaratory and injunctive relief.

3 **PRAYER FOR RELIEF**

4 WHEREFORE, Plaintiffs pray judgment as follows:

5 1. For a declaration, under 42 U.S.C. § 3613 (FHA), Cal. Gov. Code §
6 12929.2 (California FEHA) and any other relevant statutes, that:

7 a. Defendants City of San Diego, San Diego Housing Authority,
8 and SDHC's policies and practices have perpetuated racial segregation and the
9 concentration of poverty in the City of San Diego.

10 b. Defendant SDHC has funded and concentrated projects that
11 receive Low Income Housing Tax Credits in the Affected Communities in violation
12 of state and federal law.

13 c. Defendant City of San Diego's approval and implementation of
14 the Community Plans for the Affected Communities violates state law and federal
15 fair housing laws and regulations.

16 d. Defendant City of San Diego has not implemented Council
17 Policy 600-19 and Encanto Community Plan Policy P-EP-22 with sanctions, such
18 as building moratoriums for non-compliance.

19 e. Defendant County of San Diego's Live Well Center perpetuates
20 segregation in the Affected Communities in violation of state law and federal fair
21 housing laws and regulations.

22 2. For injunctive relief, under 42 U.S.C. § 3613(c), Cal. Gov. Code §
23 12929.2 and any other relevant statute, commanding:

24 a. Defendant City of San Diego to issue a building moratorium,
25 which immediately ceases all projects for extremely low, very low and low-income
26 housing in the Affected Communities.

27 b. Defendant City of San Diego to direct its Development Services
28 to not waive or defer Development Impact Fees for projects located within the

1 Affected Communities.

2 c. Defendant City of San Diego to create a report during the
3 moratorium period, and a comprehensive annual report identifying all affordable
4 housing being built thereafter, that shall be presented for review and approval by
5 the Chollas Valley and Southeastern San Diego' community groups.

6 d. Defendant City of San Diego to amend Encanto and
7 Southeastern San Diego's Community Plans and where applicable, the San Diego
8 Municipal Code, to permit review and advice on proposed developments.

9 e. All Defendants to comply with California Fair Employment and
10 Housing Act's prohibition on discrimination (Gov. Code §§ 12900 *et seq.*)

11 3. For injunctive relief, under 42 U.S.C. § 3613(c), Cal. Gov. Code §
12 12929.2 and any other relevant statute, enjoining:

13 a. Defendant City of San Diego from approving or implementing
14 extremely low, very low and low-income housing in the Affected Communities.

15 b. Defendant SDHC from approving or implementing extremely
16 low, very low and low-income housing in the Affected Communities.

17 c. Defendant County of San Diego from developing the
18 Southeastern San Diego Live Well Center because it will perpetuate racial
19 segregation.

20 d. Defendant City of San Diego from limiting the issuance of
21 Neighborhood Development Permits (Process 2) to those projects which are being
22 built for modern income levels or above in the Affected Communities.

23 4. An award of litigation expenses, attorney fees, and court costs
24 pursuant to 42 U.S.C. § 3612(p); 42 U.S.C. § 1988; Cal. Code of Civil Procedure §
25 1021.5 and Cal. Gov. Code § 12989.2 as well as any other relevant statutes the
26 Court deems proper; and

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5. For all other relief the Court determines is warranted.

AGUIRRE & SEVERSON, LLP

Dated: May 30, 2019

/s/ Michael J. Aguirre
Michael J. Aguirre
Attorneys for Plaintiffs