

Case Nos. A162862 and A162863

IN THE COURT OF APPEAL OF THE STATE OF
CALIFORNIA
FIRST APPELLATE DISTRICT

Salmon Protection and Watershed Network,
Petitioners and Respondents,

v.

County of Marin
Respondent and Appellant.

Appeal from the Superior Court of California, County of Marin
Case No. CIV 1004866
Hon. Andrew E. Sweet of the Superior Court

APPLICATION FOR LEAVE TO FILE AMICUS CURIAE
BRIEF
AND PROPOSED AMICUS CURIAE BRIEF OF
CALIFORNIA STATE ASSOCIATION OF COUNTIES

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CERTIFICATE OF INTERESTED ENTITIES OR PERSONS

There are no interested entities or persons that must be listed under California Rules of Court, Rule 8.208.

Dated: April 28, 2022

By: /s/ Laura E. Hirahara

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**APPLICATION FOR LEAVE TO FILE AMICUS CURIAE
BRIEF IN SUPPORT OF APPELLANTS**

**TO THE HONORABLE PRESIDING JUSTICE OF THE
CALIFORNIA COURT OF APPEAL, FIRST APPELLATE
DISTRICT:**

The California State Association of Counties (“CSAC”) (“Amicus Curiae”) respectfully applies for leave to file the accompanying amicus curiae brief in support of Appellant County of Marin (“Appellant”). This application is timely, filed within fourteen (14) days after the last appellant's reply brief was or could have been filed. (Cal. Rule of Court 8.200(c)(1).)

INTERESTS OF AMICUS CURIAE

Amicus Curiae submits this brief as a representative of counties throughout the State of California, which agencies have a vital interest in the consistent interpretation of the California Environmental Quality Act (“CEQA”) and the Planning and Zoning Law. The trial court’s finding that Appellant’s Board of Supervisors abused its discretion in approving a general plan update that provided for Appellant to adopt an ordinance within five years, if upheld by this Court, could force counties to adopt the implementation measures of a general plan update along with the general plan update itself. General plans take years to approve, involve the input of numerous community members and organizations, require intergovernmental coordination, and compliance with a series of related regulations.

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If upheld by this Court, the trial court's finding will further complicate the adoption of general plan updates at a time when statewide policy is focused on local land use planning in the face of a mounting housing crisis.

CSAC is a non-profit corporation with a membership consisting of the 58 California counties. CSAC sponsors a Litigation Coordination Program, which is administered by the County Counsels' Association of California and is overseen by the Association's Litigation Overview Committee, comprised of county counsels throughout the State. The Litigation Overview Committee monitors litigation of concern to counties statewide and has determined that this case is a significant matter affecting all counties in California and is worthy of amicus support.

THE AMICUS CURIAE BRIEF WILL ASSIST THE COURT IN DECIDING THIS MATTER

This case concerns the standard for determining whether a Board of Supervisors abuses its discretion in approving deferred mitigation measures that comply with CEQA's requirements and include specific performance standards when updating a county's general plan. Amicus Curiae is uniquely situated to comment on the trial court's determination of what constitutes an abuse of discretion in this context because all CSAC members are required to create and regularly update general plans as part of counties' land use duties. Further, CSAC's members are on the front lines of California's housing crisis and are responsible for implementing many of the state's housing policies.

Because counties play a central role in the creation and execution of state policy through general plans, they are particularly qualified to advise the Court on the practical and legal implications of the trial court's conclusory ruling that Appellant's Board of Supervisors abused its discretion in approving a general plan update that provided for Appellant to adopt a stream conservation area ordinance within five years.

Amicus Curiae respectfully requests that the Court accept and consider the accompanying Amicus Curiae brief in support of Appellant.

CERTIFICATION

No party or counsel for a party in this appeal authored this proposed amicus brief, in whole or in part, or made a monetary contribution intended to fund the preparation or submission of this brief. Moreover, no person or entity made any monetary contribution intended to fund the preparation or submission of the proposed amicus curiae brief, other than the Amicus Curiae submitting this proposed brief, its members, and its counsel in the pending appeal. There are no interested entities or persons that must be listed under California Rule of Court 8.208.

Dated: April 28, 2022

By: /s/ Laura E. Hirahara
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AMICUS CURIAE BRIEF IN SUPPORT OF APPELLANT

INTRODUCTION

Amicus curiae California State Association of Counties (“CSAC” or “Amicus”) files this amicus brief in support of appellant County of Marin, “Appellant.” The issues in this case are of great concern to CSAC’s members, all counties throughout the State of California, who are charged with approving general plan updates that require compliance with the Planning and Zoning Law and the California Environmental Quality Act (“CEQA”). Appellant aptly details the case law that defines the appropriate standard of review and CEQA review of mitigation measures, general plans, and related ordinances. Amicus does not repeat those arguments in this brief.

Instead, this brief details counties’ interest in the consistent interpretation of standards for implementing long range land use policy through a general plan. General plans focus on a myriad of sometimes competing concerns. In addition to aiming to reduce the impacts of land use development on the environment, a general plan must also take into account the impacts on existing developments, increase the quality of life for the residents of the county, and meet the needs of a changing and evolving community. This accounting is further complicated by the various stakeholders that have an interest in developing a general plan, a dynamic process that includes public review requirements resulting in diverse and unique input. Statewide policies must be considered, and many legislative solutions aimed at combating California’s persistent issues regarding housing are focused on local planning.

Counties rely on the steady interpretation of land use laws and guidelines to ensure general plans and that the zoning, ordinances, and permits that flow from them are robust, thorough, and balanced.

In order to ensure that this thoughtful and detailed process can occur in the manner contemplated by law, Amicus respectfully urges this Court to reverse the superior court's judgment granting Respondents' SPAWN and Center for Biological Diversity ("Respondents") petition for writ of mandate, and hold that Appellant's mitigation measure to adopt an expanded stream conservation area ordinance within five years of approving its general plan update complies with CEQA's requirements for mitigation measures, supported on the record by substantial evidence.

ARGUMENT

I. Counties Operate Under a Complex Regulatory Framework When Approving and Implementing General Plans.

Since 1971, counties have been required to develop land use plans as the "comprehensive, long-term general plan for the physical development of the county [], and of any land outside its boundaries which in the planning agency's judgment bears relation to its planning." (Gov. Code, § 65300.) The Legislature, in requiring the development of a general plan, identified the inextricable link between local planning and statewide goals.

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[D]ecisions involving the future growth of the state, *most of which are made and will continue to be made at the local level*, should be guided by an effective planning process, including the local general plan, and should proceed within the framework of officially approved statewide goals and policies directed to land use, population growth and distribution, development, open space, resource preservation and utilization, air and water quality, and other related physical, social and economic development factors.

(Gov. Code, § 65030.1, emphasis added.)

The Legislature clearly intended general plans to harmonize a county's budget and local planning with "approved statewide goals and policies" and the realities unique to a county's location and resources. In addition to state and county level coordination, cities within a county's borders are under similar requirements, and local governments are directed to work in collaboration to determine how a region's resources are best distributed to meet the needs and goals of each general plan. The Planning and Zoning Law instructs that local governments within California:

coordinate [] local budget planning and local planning for federal and state program activities, such as community development, with the local land use planning process, recognizing that each city and county is required to establish its own appropriate balance in the context of the local situation when allocating resources to meet these purposes.

(Gov. Code, § 65300.9.)

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Overall, in defining the scope of a general plan, counties must at a minimum consider state and federal programs, statewide goals and policies across several areas, and intergovernmental coordination. Counties must also prepare documents and conduct environmental review under CEQA that can include hundreds of public comments and the input of numerous community organizations. Finally, a county must be prepared to defend the adequacy its general plan and environmental review in court, which can delay implementation for years, or as in this case, result in staggered stages of adoption and implementation.

Counties operate under this intricate fabric of regulation and public scrutiny in approving and implementing general plans in what is often a multi-year and multi-agency process. The superior court's finding that the County's mitigation measure to adopt an ordinance within five years of adopting its general plan was an abuse of discretion fails to consider the level of specificity with which planning and review is already required and undertaken by counties in updating general plans.

II. General Plans are the County's Land Use Constitution and are the Result of Multi-year Processes, Often Incorporating Additional Elements Depending on Unique Factors.

General plans, “[a]cting much like a *land use constitution*, [are] the basic charter governing the direction of future land use within a locality.” (*Carson Harbor Village, Ltd. v. City of Carson* (2015) 239 Cal.App.4th 56, 62, emphasis added.)

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As the land use constitution, general plans must be internally consistent and integrated to ensure they can act as the yardstick for future development, a tool to be referenced in all subsequent land use decisions. “A [general plan] that, on its face, displays substantial contradictions and inconsistencies cannot serve as an effective plan because those subject to the plan cannot tell what it says should happen or not happen.” (*Concerned Citizens of Calaveras County v. Bd. of Supervisors* (1985) 166 Cal.App.3d 90, 97.) Internal consistency requires integration between the elements of a general plan, as well as integration within each element. (Gov. Code, § 65300.5.) Counties are required to include eight elements related to land use, transportation, housing, conservation, open spaces, environmental justice, safety, and noise, with “diagrams and text setting forth objectives, principles, standards, and plan proposals,” within each element. (Gov. Code, § 65302.) This is a detailed and study intensive process with legal standards dictating reasonableness at multiple levels of decision-making.

Many counties include additional elements due to the special and unique characteristics of the environment and the population from one part of the state to the next, adding to the analysis and attention required by a county in updating a general plan. For example, in the County of San Luis Obispo, the nuclear power plant located on the county’s coastal shoreline necessitates an offshore energy element, while the many wineries and ranches require an agriculture element.

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(Dept. of Planning and Building, *Agriculture Element*, (May 11, 2010) County of San Luis Obispo
<<https://www.slocounty.ca.gov/Departments/Planning-Building/Forms-Documents/Plans-and-Elements/Elements/Agriculture-Element.aspx>> (as of Apr. 25, 2022), Dept. of Planning and Building, *Offshore Energy Element*, (Dec. 15, 1992) County of San Luis Obispo
<<https://www.slocounty.ca.gov/Departments/Planning-Building/Forms-Documents/Plans-and-Elements/Elements/Offshore-Energy-Element.aspx>> (as of Apr. 25, 2022).) The County of San Bernardino, home to several large Indian reservations, includes a cultural resources element in its general plan. (Land Use Services Dept., *Cultural Resources Element*, (Oct. 10, 2020) County of San Bernardino
<<https://countywideplan.com/policy-plan/cultural-resources/>> (as of Apr. 25, 2022).) Amendments happen often as this is not a static process, which requires counties to be highly adaptable.

Because of [the] consistency requirements, amendments to one element may necessitate amendments to another element. *A jurisdiction must monitor its general plan to ensure that consistency is maintained*, particularly when periodic, specific amendments are made to the general plan in response to specific issues or development proposals.

(Feldstein, *General Plans and Zoning* (2007) Pub. Health Law & Policy, pp. 43-44, emphasis added.)

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The lengthy general plan update process often includes defining the scope of the plan, formulating the plan’s goals, collecting and analyzing data, refining the plan’s goals in light of the data, developing alternatives, adopting the plan, and finally implementing the general plan through zoning, ordinances, and permits. Counties are subject to developing general plans in compliance with CEQA and engaging public participation in the process along with intergovernmental coordination and review. The counties of Merced and Butte, with populations comparable to Marin County, took seven and four years respectively to approve their most recent general plan updates. (Dept. of Community and Economic Development, *General Plan: Welcome*, (Dec. 10, 2013) Merced County <<https://www.co.merced.ca.us/100/General-Plan>> (as of Apr. 25, 2022), Development Services, *Butte County General Plan 2030 Related Resources*, (Oct. 26, 2010) Butte County <<https://www.buttecounty.net/dds/Planning/Butte-County-General-Plan>> (as of Apr. 25, 2022).) This process can involve strong public participation, as in the case of Contra Costa County which approved its last general plan update after establishing a 67-person General Plan Congress that included the city councils of all 18 cities within the county and engaged in hundreds of hours of open meetings with the public.

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(Dept. of Conservation and Development, *General Plan: Introduction*, Contra Costa County <[https://www.contracosta.ca.gov/DocumentCenter/View/30911/Ch1-Introduction?bidId=>](https://www.contracosta.ca.gov/DocumentCenter/View/30911/Ch1-Introduction?bidId=) (as of Apr. 25, 2022).) “All segments of the Contra Costa County population participated in that public comment period, including representatives of ranchers, developers, farmers, environmentalists, labor groups, cities, special districts, business and industrial associations.” (*Ibid.* at p. 1-2.)

Updating a general plan is not simple task, and counties must be prepared to spend years on the process. The superior court ruling fails to recognize the importance of CEQA's provisions that allow a programmatic analysis of general plan provisions before moving into the ordinance and permit stages. It would be overly burdensome to require counties to approve and implement ordinances that are based on the policies within the general plan while developing and approving the general plan, which takes years. As Appellant expertly explains, CEQA allows deferred mitigation measures and courts have long understood that county land use decisions should be afforded judicial deference in this context. (See Appellant’s Reply Brief, p. 28.)

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III. General Plan Updates Face a Shifting Legal Landscape and all California Counties Rely on the Consistent Interpretation of Land Use Regulations from the Courts.

General plans must adapt as the law evolves to address multiple changes and crises within the state, on everything from access to healthcare during the ongoing COVID-19 pandemic to the growing effects of climate change on a state bordered by a warming Pacific Ocean and experiencing the driest year on record in well over 100 years. (*Coastal Ocean Temperatures*, (Feb. 11, 2019) Cal. Off. of Environmental Health Hazard Assessment <https://oehha.ca.gov/media/epic/downloads/15coastoceantemp_19dec2018.pdf> (as of Apr. 25, 2022); National Integrated Drought Information System, *Current U.S. Drought Monitor Conditions for California*, (Apr. 4, 2022) Nat. Oceanic and Atmospheric Admin. <<https://www.drought.gov/states/california>> (as of Apr. 25, 2022).) The challenges counties face in maintaining effective and integrated general plans are perhaps best illustrated by the issues surrounding the state’s housing crisis. It is a multi-faceted issue that includes a need for more housing, and more affordable housing. Statewide analyses of poverty, median home prices, and rates of home ownership highlight the need for effective responses¹.

¹ California maintains the highest rate of functional poverty at 18.2% (taking into account government programs designed to assist low-income families and individuals), while other estimates put 35% of Californians at or near poverty level. (Walters, *California Still No.1 in Poverty*, (Sept. 17, 2019) Cal Matters <<https://calmatters.org/commentary/2019/09/high-cost-california-no-1-in-poverty/>> (as of Apr. 25, 2022).) California also has the

Local zoning and density ordinances are playing a central role in the development of statewide policy in this arena, and in the last several years the Legislature, lobbyists, and numerous community organizations have advocated for an increased number of land use regulations, with many focused on changing the rules around local control and development. Changes to the state's population and the constantly evolving needs of the people and businesses that drive expansion throughout the state have sparked vigorous debates on these legislative answers to the crisis, as California has added 3.2 times more people than housing units over the last 10 years. (McGhee et al., *New Housing Fails to Make Up for Decades of Undersupply*, (Dec. 3, 2021) Pub. Policy Inst. of Cal. <https://www.ppic.org/blog/new-housing-fails-to-make-up-for-decades-of-undersupply/?utm_source=ppic&utm_medium=email&utm_campaign=blog_subscriber> (as of Apr. 25, 2022).)

Given the importance of general plans as the land use constitution for development within a county, proposed solutions to this housing crisis are increasingly aimed at local zoning and density laws. Much proposed legislation could require counties to amend their general plans to reflect new requirements or obligations.

second lowest rate of home ownership among its residents, and a median home cost that is second only to Hawaii at over \$618,000. (Walters, *California Housing Crisis Both Wide and Deep*, (Dec. 7, 2021) Cal Matters <<https://calmatters.org/commentary/2021/12/california-housing-crisis-both-wide-and-deep/>> (as of Apr. 25, 2022).)

Over 85 land use and housing bills have been introduced to the Legislature so far during the current session addressing everything from mitigation fees to setbacks for accessory dwelling units to issues related to local control².

² Assem. Bill No. 500 (2021-2022 Reg. Sess.); Assem. Bill No. 682 (2021-2022 Reg. Sess.); Assem. Bill No. 897 (2021-2022 Reg. Sess.); Assem. Bill No. 916 (2021-2022 Reg. Sess.); Assem. Bill No. 950 (2021-2022 Reg. Sess.); Assem. Bill No. 989 (2021-2022 Reg. Sess.); Assem. Bill No. 1001 (2021-2022 Reg. Sess.); Assem. Bill No. 1078 (2021-2022 Reg. Sess.); Assem. Bill No. 1154 (2021-2022 Reg. Sess.); Assem. Bill No. 1401 (2021-2022 Reg. Sess.); Assem. Bill No. 1445 (2021-2022 Reg. Sess.); Assem. Bill No. 1551 (2021-2022 Reg. Sess.); Assem. Bill No. 1674 (2021-2022 Reg. Sess.); Assem. Bill No. 1748 (2021-2022 Reg. Sess.); Assem. Bill No. 1850 (2021-2022 Reg. Sess.); Assem. Bill No. 1858 (2021-2022 Reg. Sess.); Assem. Bill No. 1943 (2021-2022 Reg. Sess.); Assem. Bill No. 1952 (2021-2022 Reg. Sess.); Assem. Bill No. 1976 (2021-2022 Reg. Sess.); Assem. Bill No. 2011 (2021-2022 Reg. Sess.); Assem. Bill No. 2049 (2021-2022 Reg. Sess.); Assem. Bill No. 2050 (2021-2022 Reg. Sess.); Assem. Bill No. 2053 (2021-2022 Reg. Sess.); Assem. Bill No. 2063 (2021-2022 Reg. Sess.); Assem. Bill No. 2068 (2021-2022 Reg. Sess.); Assem. Bill No. 2094 (2021-2022 Reg. Sess.); Assem. Bill No. 2097 (2021-2022 Reg. Sess.); Assem. Bill No. 2099 (2021-2022 Reg. Sess.); Assem. Bill No. 2139 (2021-2022 Reg. Sess.); Assem. Bill No. 2160 (2021-2022 Reg. Sess.); Assem. Bill No. 2221 (2021-2022 Reg. Sess.); Assem. Bill No. 2234 (2021-2022 Reg. Sess.); Assem. Bill No. 2237 (2021-2022 Reg. Sess.); Assem. Bill No. 2310 (2021-2022 Reg. Sess.); Assem. Bill No. 2328 (2021-2022 Reg. Sess.); Assem. Bill No. 2334 (2021-2022 Reg. Sess.); Assem. Bill No. 2339 (2021-2022 Reg. Sess.); Assem. Bill No. 2357 (2021-2022 Reg. Sess.); Assem. Bill No. 2367 (2021-2022 Reg. Sess.); Assem. Bill No. 2386 (2021-2022 Reg. Sess.); Assem. Bill No. 2395 (2021-2022 Reg. Sess.); Assem. Bill No. 2428 (2021-2022 Reg. Sess.); Assem. Bill No. 2430 (2021-2022 Reg. Sess.); Assem. Bill No. 2485 (2021-2022 Reg. Sess.); Assem. Bill No. 2492 (2021-2022 Reg. Sess.); Assem. Bill No. 2523 (2021-2022 Reg. Sess.); Assem. Bill No. 2531 (2021-2022 Reg. Sess.); Assem. Bill No. 2536 (2021-2022

Of the bills that have been signed by the Governor, many directly amend or add to the state's Planning and Zoning Law in ways that create new levels of complexity for general plans, either by creating new requirements for general plan documents, or by changing how and when county zoning ordinances apply to some types of development permits.

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Reg. Sess.); Assem. Bill No. 2560 (2021-2022 Reg. Sess.); Assem. Bill No. 2561 (2021-2022 Reg. Sess.); Assem. Bill No. 2597 (2021-2022 Reg. Sess.); Assem. Bill No. 2653 (2021-2022 Reg. Sess.); Assem. Bill No. 2656 (2021-2022 Reg. Sess.); Assem. Bill No. 2668 (2021-2022 Reg. Sess.); Assem. Bill No. 2705 (2021-2022 Reg. Sess.); Assem. Bill No. 2755 (2021-2022 Reg. Sess.); Assem. Bill No. 2762 (2021-2022 Reg. Sess.); Assem. Bill No. 2789 (2021-2022 Reg. Sess.); Assem. Bill No. 2825 (2021-2022 Reg. Sess.); Assem. Bill No. 2840 (2021-2022 Reg. Sess.); Assem. Const. Amend. No. 1 (2021-2022 Reg. Sess.); Assem. Const. Amend. No. 7 (2021-2022 Reg. Sess.); Assem. Const. Amend. No. 14 (2021-2022 Reg. Sess.); Sen. Bill No. 6 (2021-2022 Reg. Sess.); Sen. Bill No. 12 (2021-2022 Reg. Sess.); Sen. Bill No. 15 (2021-2022 Reg. Sess.); Sen. Bill No. 581 (2021-2022 Reg. Sess.); Sen. Bill No. 649 (2021-2022 Reg. Sess.); Sen. Bill No. 679 (2021-2022 Reg. Sess.); Sen. Bill No. 888 (2021-2022 Reg. Sess.); Sen. Bill No. 897 (2021-2022 Reg. Sess.); Sen. Bill No. 930 (2021-2022 Reg. Sess.); Sen. Bill No. 932 (2021-2022 Reg. Sess.); Sen. Bill No. 940 (2021-2022 Reg. Sess.); Sen. Bill No. 1067 (2021-2022 Reg. Sess.); Sen. Bill No. 1094 (2021-2022 Reg. Sess.); Sen. Bill No. 1136 (2021-2022 Reg. Sess.); Sen. Bill No. 1214 (2021-2022 Reg. Sess.); Sen. Bill No. 1252 (2021-2022 Reg. Sess.); Sen. Bill No. 1292 (2021-2022 Reg. Sess.); Sen. Bill No. 1307 (2021-2022 Reg. Sess.); Sen. Bill No. 1354 (2021-2022 Reg. Sess.); Sen. Bill No. 1408 (2021-2022 Reg. Sess.); Sen. Bill No. 1410 (2021-2022 Reg. Sess.); Sen. Bill No. 1425 (2021-2022 Reg. Sess.); Sen. Bill No. 1449 (2021-2022 Reg. Sess.); Sen. Const. Amendment No. 2 (2021-2022 Reg. Sess.); Sen. Bill No. 9 (2021-2022 Reg. Sess.).

Assembly Bill 215, approved September 28, 2021, added the requirement that counties submit the draft of the county's housing element and any housing element amendments to the State's Department of Housing and Community Development for review *before* adoption. (Gov. Code, § 65585.) The bill also made changes to public comment and notice periods that counties must comply with before the Department can begin review of a county's housing element or amendments. (Gov. Code § 65585, subd. (b)(1).) Senate Bill 9, also known as the California Housing Opportunity and More Efficiency (HOME) Act, made several changes to local land use planning by creating new requirements for counties in relation to splitting single-family homes into multi-unit residences. Even though the HOME Act's amendments to Government Code section 65852.21, subd. (b)(1) permit counties to impose objective zoning standards on such developments, those standards cannot physically preclude construction of up to 2 units that are at least 800 square feet. (Gov. Code, § 65852.21 subd. (b)(2)(A).)

It is too early to tell what effect these and other bills approved and still pending in this legislative session will have on the housing crisis in California, but it is certain counties across the state will need to update and amend their general plans as the Legislature makes further changes to the Planning and Zoning Law.

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The Department of Housing and Community Development, citing the historic housing crisis and the many bills signed into law since 2017 to address it, received \$4.65 million in the 2021-2022 state budget to add staff to its enforcement efforts to implement the new housing laws. (Tobias, *With More Enforcement Power than Ever, State Relies on Activists to Enforce Duplex Law*, (Apr. 22, 2022) Cal Matters <<https://calmatters.org/housing/2022/04/california-duplex-housing/>> (as of Apr. 25, 2022).) The head of that department has stated that the bulk of cases will come from citizen complaints. “Violations of these state laws may lead to consequences including revocation of housing element certification and/or referral to the California Office of the Attorney General.” (*Ibid.*) Counties must balance this heightened public and state scrutiny at a time when local governments are working to combat the worst effects of the housing crises on multiple fronts that include deepening issues related to density and affordability.

As a result, general plans must be tailored to address a multitude of concerns, with counties working to stay atop new legislation and engage a diverse population in a review process that can take years. General plan updates and amendments require a close look at how each element relates to the rest within the plan. Zoning will change, and ordinances will need to be written and rewritten. All of these legislative ripple effects will inevitably take time to occur. Processes in counties across the state are already changing to accommodate the new laws, and local governments are working diligently to give force to the

statewide policies aimed at addressing California's housing crisis. Legislation is increasingly concerned with delays in development, and yet this one point of contention has meant delaying full adoption of the Appellant county's general plan update for years. The superior court's decision that a five-year window to develop a land use ordinance as part of a county's general plan is an unlawfully deferred mitigation measure simply does not reflect the realities on the ground for local governments or the complexities involved both in updating a general plan and in taking subsequent legislative actions such as zoning changes and other ordinances needed to give full force to the broad legislative commitments found in the general plan.

CONCLUSION

General plan updates take time for several reasons as detailed in this brief, not the least of which is the importance of input from county residents and community organizations. An update or amendment is vetted through years of review and formulated to withstand judicial scrutiny. Respondents' interpretation that CEQA or the Planning and Zoning Law requires counties to develop and approve zoning ordinances simultaneously with general plan updates is not tenable. This is a complex process that cannot and should not be rushed.

Therefore, this court should reverse the superior court's judgment denying the County's writ and finding that the County's Board of Supervisors abused its discretion in approving the mitigation measure.

Dated: April 28, 2022

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CERTIFICATION OF WORD COUNT

Counsel of record hereby certifies that pursuant to Rule 8.204(c)(1) of the California Rules of Court, the brief of Amicus Curiae California State Association of Counties and the League of California Cities was produced using 13-point Roman type, including footnotes, and contains approximately 4,264 words, according to the word count of the computer program used to prepare this brief.

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