

1 KEKER, VAN NEST & PETERS LLP
2 BAILEY W. HEAPS - # 295870
3 bheaps@keker.com
4 JASON GEORGE - # 307707
5 jgeorge@keker.com
6 JACQUELINE CONCILLA - # 335733
7 jconcilla@keker.com
8 633 Battery Street
9 San Francisco, CA 94111-1809
10 Telephone: 415 391 5400
11 Facsimile: 415 397 7188

12 Attorneys for Petitioner NEWPORT BEACH STEWARDSHIP
13 ASSOCIATION

14 SUPERIOR COURT OF THE STATE OF CALIFORNIA

15 IN AND FOR THE COUNTY OF ORANGE

16 NEWPORT BEACH STEWARDSHIP
17 ASSOCIATION,

18 Petitioner and Plaintiff,

19 v.

20 CITY OF NEWPORT BEACH,

21 Respondent and Defendant.

Case No. 30-2024-01428295-CU-WM-CXC

**SUPPLEMENTAL DECLARATION OF
BAILEY W. HEAPS IN SUPPORT OF
MOTION FOR JUDGMENT AND
REQUEST FOR JUDICIAL NOTICE;
SUPPLEMENTAL INDEX OF EXHIBITS**

Date: May 22, 2025
Time: 2:00 p.m.
Dept.: CX104
Judge: Hon. Melissa R. McCormick

Date Filed: September 24, 2024

1 I, Bailey W. Heaps, declare as follows:

2 1. I am an attorney licensed to practice in the State of California. I am a partner at
3 Keker, Van Nest and Peters LLP, and I represent Petitioner and Plaintiff Newport Beach
4 Stewardship Association (“NBSA”) in this action. I submit this declaration in support of NBSA’s
5 Amended Motion for Judgment filed concurrently herewith. I have personal knowledge of the
6 facts set forth herein, and if called to testify as a witness thereto under oath, I could competently
7 do so.

8 2. NBSA originally filed its Motion for Judgment (the “Motion”) on December 4,
9 2024 and attached 75 exhibits subject to judicial notice in support of the Motion. Following that
10 submission, the City served a final Administrative Record in this matter on December 19, 2024,
11 and subsequently served a Supplemental Administrative Record on April 16, 2024. NBSA
12 disputes whether an Administrative Record is appropriate in this action. Nonetheless, pursuant to
13 the direction of the Court, the parties in this matter and in the related matter *Still Protecting Our*
14 *Newport v. City of Newport Beach*, No. 30-2024-01417895 (Orange County Super. Ct.) have
15 agreed on a joint method referring to exhibits in the briefing on NBSA’s Motion for Judgment
16 and in the Still Protecting Our Newport (“SPON”) action. The citations in NBSA’s Motion for
17 Judgment have been modified to refer to the City’s Administrative Record by Bates number (in
18 the format “AR XXXXXX”), the City’s Supplemental Administrative Record by Bates number
19 (in the format “SAR XXXXXX”), and a Supplemental Index of Exhibits prepared by NBSA and
20 Still Protecting Our Newport by Bates number (in the format “SI XXXXXX”). The City and
21 NBSA have stipulated that the City will lodge the Administrative Record and Supplemental
22 Administrative Record with the Court on or before May 9, 2025, and NBSA will lodge the
23 Supplemental Index with the Court on or before May 8, 2025.

24 3. Attached as **Attachment A** is a table reflecting the contents of the Supplemental
25 Index of Exhibits.

26 4. Attached as **Attachment B** is a table listing the 75 exhibits attached to the
27 Declaration of Bailey Heaps filed on December 4, 2024 in support of NBSA’s Motion for
28

1 Judgment and the corresponding Bates range for each exhibit in the Administrative Record,
2 Supplemental Administrative Record, and the Supplemental Index of Exhibits.

3 I declare under penalty of perjury and the laws of the State of California that the foregoing
4 is true and correct. Executed on April 16, 2025, in San Francisco, California.

5 

6 BAILEY W. HEAPS

Attachment A

Supplemental Index of Exhibits

Suppl. Index Bates	Date	Description	URL
SI 000001 - SI 000244	9/24/2013	The City's Fifth Cycle General Plan Housing Element plan, adopted on September 24, 2013 in City Resolution No. 2013-69	https://www.newportbeachca.gov/PLN/General_Plan/06_Ch5_Housing_web.pdf
SI 000245 - SI 000250	12/12/2018	<i>Building Industry Association v. City of Encinitas</i> , Superior Court of the State of California for the County of San Diego, Case No. 37-2017-00023267-CU-WM-NC, slip. Opn., Order	
SI 000251 - SI 000255	7/1/2020	Approved Housing Element Update Advisory Committee meeting minutes from the July 1, 2020 meeting	https://ecms.newportbeachca.gov/WEB/DocView.aspx?id=2548875&dbid=0&repo=CNB
SI 000256 - SI 000264	7/15/2020	Approved Housing Element Update Advisory Committee meeting minutes from the July 15, 2020 meeting	https://ecms.newportbeachca.gov/WEB/DocView.aspx?id=2596963&dbid=0&repo=CNB
SI 000265 - SI 000271	9/2/2020	Approved Housing Element Update Advisory Committee meeting minutes from the September 2, 2020 meeting	https://ecms.newportbeachca.gov/WEB/DocView.aspx?id=2599603&dbid=0&repo=CNB
SI 000272 - SI 000283	1/1/2021	A Housing Element Completeness Checklist published by the California Department Housing and Community Development ("HCD") in January 2021.	https://www.hcd.ca.gov/community-development/housing-element/docs/housing%20element%20completeness%20checklist.pdf
SI 000284 - SI 000295	10/12/2021	Letter from Paul McDougall, Senior Program Manager, California Department of Housing and Community Development, to the City's Director of the Community Development Department Seimone Jurjis, regarding "City of Newport Beach 6th Cycle (2021-2029) Draft Housing Element," dated October 12, 2021	https://ecms.newportbeachca.gov/WEB/DocView.aspx?id=2794184&dbid=0&repo=CNB&searchid=912289a1-ecce-4662-9e7e-d70c3ac49072&cr=1
SI 000296 - SI 000382	9/13/2022	Correspondence to the City Council providing comments on the proposed housing element in advance of the September 13, 2022 City Council meeting	https://ecms.newportbeachca.gov/WEB/DocView.aspx?id=2833863&dbid=0&repo=CNB
SI 000383 - SI 000413	9/13/2022	City Council Staff Report titled "Ordinance No. 2022-18: A Code Amendment Updating Density Bonus Regulations to Comply with State Law (PA2020-032)"	https://ecms.newportbeachca.gov/WEB/DocView.aspx?id=2833804&dbid=0&repo=CNB
SI 000414 - SI 000414	9/13/2022	Overview of the City Council meeting agenda from September 13, 2022 titled "On the Agenda: City Council Meeting for Sept. 13"	https://ecms.newportbeachca.gov/WEB/DocView.aspx?id=2833860&dbid=0&repo=CNB
SI 000415 - SI 000423	9/13/2022	Presentation titled "2021-2029 6th Cycle Final Housing Element," dated September 13, 2022	https://ecms.newportbeachca.gov/WEB/DocView.aspx?id=2833865&dbid=0&repo=CNB
SI 000424 - SI 000424	9/13/2022	Handout titled "Item 18 Resolution No. 2022-60: Amending and Re-Adopting the 2021-2029 6th Cycle Housing Element," dated September 13, 2022	https://ecms.newportbeachca.gov/WEB/DocView.aspx?id=2833869&dbid=0&repo=CNB
SI 000425 - SI 000425	9/13/2022	"September 13, 2022, City Council Agenda Comments" submitted by Jim Mosher of Newport Beach	https://ecms.newportbeachca.gov/WEB/DocView.aspx?id=2833861&dbid=0&repo=CNB
SI 000426 - SI 000432	9/13/2022	City Council Agenda for the September 13, 2022 City Council meeting	https://ecms.newportbeachca.gov/WEB/DocView.aspx?id=2833840&dbid=0&repo=CNB
SI 000433 - SI 000434	9/13/2022	Meeting	https://ecms.newportbeachca.gov/WEB/DocView.aspx?id=2833862&dbid=0&repo=CNB
SI 000435 - SI 000446	9/13/2022	Draft City Council Meeting Minutes from the Study Session and Regular Meeting on August 23, 2022	https://ecms.newportbeachca.gov/WEB/DocView.aspx?id=2833802&dbid=0&repo=CNB
SI 000447 - SI 000455	9/13/2022	City Council Staff Report titled "Resolution No. 2022-59: Creating the General Plan Advisory Committee (GPAC)" prepared by the City's Principal Planner, Benjamin M. Zdeba, and dated September 13, 2022	https://ecms.newportbeachca.gov/WEB/DocView.aspx?id=2833810&dbid=0&repo=CNB
SI 000456 - SI 001554	9/13/2022	City Council Staff Report titled "Resolution No. 2022-60: Amending and Re-Adopting the 2021-2029 6th Cycle Housing Element" that was prepared by the City's Senior Planner, Benjamin M. Zdeba, and Deputy Community Development Director, Jim Campbell, in connection with the September 13, 2022 City Council meeting	https://ecms.newportbeachca.gov/WEB/DocView.aspx?id=2833796&dbid=0&repo=CNB

Supplemental Index of Exhibits

Suppl. Index Bates	Date	Description	URL
SI 001555 - SI 001564	9/13/2022	Approved City Council Meeting minutes from the September 13, 2022 meeting	https://ecms.newportbeachca.gov/WEB/DocView.aspx?id=2835894&dbid=0&repo=CNB
SI 001565 - SI 001567	9/13/2022	Notice of Public Hearing from the City regarding the September 13, 2022 City Council meeting	https://ecms.newportbeachca.gov/WEB/DocView.aspx?id=2834173&dbid=0&repo=CNB
SI 001568 - SI 001568	9/13/2022	Video recording of the September 13, 2022 City Council meeting	https://ecms.newportbeachca.gov/WEB/Browse.aspx?id=2833833&dbid=0&repo=CNB
SI 002227 - SI 002227	4/18/2024	Video recording of the April 18, 2024 Planning Commission meeting.	https://newportbeach.granicus.com/player/clip/4355?publish_id=644e4e03-fe5e-11ee-b231-0050569183fa&redirect=true
SI 002228 - SI 002232	6/1/2024	A Column by then-Newport Beach Mayor Will O’Neill, published in Newport Beach Living magazine in June 2024	https://www.newportbeachlivingmagazine.com/articles/mayors-corner-will-oneill-june-2024
SI 002252 - SI 002252	7/9/2024	Video recording of the July 9, 2024 City Council Meeting	https://newportbeach.granicus.com/player/clip/4385?redirect=true
SI 002296 - SI 002296	7/23/2024	Video recording of the July 23, 2024 City Council meeting	https://newportbeach.granicus.com/player/clip/4387?redirect=true
SI 002432 - SI 002439	9/5/2024	Tentative Agenda Report from August 31, 2024 through December 3, 2024	https://ecms.newportbeachca.gov/WEB/DocView.aspx?id=3054186&dbid=0&repo=CNB
SI 002440 - SI 002440	9/5/2024	Video recording of the Planning commission meeting on September 5, 2024	https://newportbeach.granicus.com/player/clip/4401?publish_id=6090a9c7-6c5e-11ef-9b71-005056a89546&redirect=true
SI 003025 - SI 003025	9/24/2024	Video recording of the September 24, 2024 City Council meeting	https://newportbeach.granicus.com/player/clip/4408?redirect=true
SI 003026 - SI 003026		Section 423 of the City of Newport Beach City Charter	https://www.codepublishing.com/CA/NewportBeach/#!/NewportBeachCH.html#04.423
SI 003027 - SI 003053		Yorba Linda Ballot Measure JJ	https://ocvote.gov/sites/default/files/elections/gen2024/measures/layouts/YLIN%20-%20JJ%20-%20LAYOUT%20-%20TP%2C%20FT%2C%20IA%2C%20AF.pdf
SI 003054 - SI 003057		City of Cypress Measure S	https://ocvote.gov/sites/default/files/elections/gen2024/measures/layouts/CYP%20-%20S%20-%20LAYOUT%20-%20TP%2C%20IA%2C%20AF%2C%20RAF%2C%20AA%2C%20RAA.pdf
SI 003058 - SI 003094		Unofficial Election Results, Orange County Registrar of Voters	https://ocvote.gov/results/current-election-results
SI 003095 - SI 003099		The introductory section of HCD’s “Building Blocks” website. As set forth therein, HCD describes the “Building Blocks” website as “A Comprehensive Housing-Element Guide to assist jurisdictions in creating comprehensive housing elements.”	https://www.hcd.ca.gov/planning-and-community-development/housing-elements/building-blocks
SI 003100 - SI 003104		The HCD’s “Building Blocks” section on “Projected Housing Needs – Regional Housing Needs Allocation.”. The website is also available at	https://www.hcd.ca.gov/planning-and-community-development/housing-elements/building-blocks/projected-housing-needs-regional-housing-needs-allocation
SI 003105 - SI 003110		The HCD’s “Building Blocks” section on “Public Participation.”.	https://www.hcd.ca.gov/planning-and-community-development/housing-elements/building-blocks/public-participation

Attachment B

Attachment B: Bates References for Original Motion for Judgment

Exhibit Number (Declaration of Bailey W. Heaps in Support of Motion for Judgment and Request for Judicial Notice, filed December 4, 2024)	Bates Reference
Exhibit 1	SI 000296 - SI 000382
Exhibit 2	SI 000383 - SI 000413
Exhibit 3	SI 000414
Exhibit 4	SI 000415 - SI 000423
Exhibit 5	SI 000424
Exhibit 6	SI 000425
Exhibit 7	SI 000426 - SI 000432
Exhibit 8	SI 000433 - SI 000434
Exhibit 9	SI 000435 - SI 000446
Exhibit 10	SI 000447 - SI 000455
Exhibit 11	SI 000456 - SI 001554
Exhibit 12	SI 001555 - SI 001564
Exhibit 13	SI 001565 - SI 001567
Exhibit 14	SI 001568
Exhibit 15	SAR 021732 – SAR 021743
Exhibit 16	AR 007226 - AR 007228
Exhibit 17	AR 003021 - AR 003207
Exhibit 18	AR 003017 - AR 003020
Exhibit 19	AR 006718 - AR 006723
Exhibit 20	SI 002227

Exhibit 21	AR 000014 - AR 000075
Exhibit 22	AR 005331 - AR 005331
Exhibit 23	AR 000211 - AR 000220
Exhibit 24	AR 004704 - AR 004709
Exhibit 25	AR 006815 - AR 006826
Exhibit 26	AR 004729 - AR 004737
Exhibit 27	AR 004710 – AR 004728
Exhibit 28	AR 004738 - AR 004756
Exhibit 29	SI 002252
Exhibit 30	AR 005206 - AR 005296
Exhibit 31	AR 007229 - AR 007230
Exhibit 32	AR 005323 - AR 005330
Exhibit 33	AR 005203 - AR 005205
Exhibit 34	AR 004757 - AR 004765
Exhibit 35	AR 006827- AR 006829
Exhibit 36	AR 006942 – AR 006953
Exhibit 37	AR 000383 - AR 000404
Exhibit 38	AR 000405 - AR 000410
Exhibit 39	AR 004770 - AR 005201
Exhibit 40	AR 004770 – AR 004789
Exhibit 41	AR 005297 - AR 005307
Exhibit 42	AR 000221 - AR 000328
Exhibit 43	AR 005308 - AR 005322
Exhibit 44	AR 005202 - AR 005202

Exhibit 45	AR 005206 - AR 005296
Exhibit 46	AR 004766 - AR 004769
Exhibit 47	SI 002296
Exhibit 48	AR 000076 - AR 000210
Exhibit 49	AR 000329 - AR 000361
Exhibit 50	AR 000362 - AR 000382
Exhibit 51	AR 000411 - AR 000432
Exhibit 52	AR 000433 - AR 000474
Exhibit 53	AR 006101 - AR 006107
Exhibit 54	AR 005851 - AR 006100
Exhibit 55	AR 005847 - AR 005850
Exhibit 56	AR 007093 - AR 007098
Exhibit 57	SI 002432 - SI 002439
Exhibit 58	SI 002440
Exhibit 59	AR 000475 - AR 000485
Exhibit 60	SAR 022580 – SAR 023163
Exhibit 61	AR 006465 - AR 006475
Exhibit 62	AR 006132 - AR 006138
Exhibit 63	AR 007106 - AR 007115
Exhibit 64	AR 006139 - AR 006326
Exhibit 65	AR 006327 - AR 006464
Exhibit 66	AR 006476 - AR 006504
Exhibit 67	AR 006129 - AR 006131
Exhibit 68	AR 007231 - AR 007231

Exhibit 69	SI 003025
Exhibit 70	AR 000486 - AR 000498
Exhibit 71	SI 003026
Exhibit 72	SI 003027 - SI 003053
Exhibit 73	SI 003054 - SI 003057
Exhibit 74	SI 003058 - SI 003094
Exhibit 75	SI 000245 - SI 000250