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October 14, 2019

Chief Justice Tani G. Cantil-Sakauye and Associate Justices
Supreme Court of California
350 McAllister Street
San Francisco, CA 94102

**Re: Amicus Curiae Letter in Support of Review
HERO v. City of Los Angeles, No. S257793**

Dear Chief Justice Cantil-Sakauye and Associate Justices:

I write, in my individual capacity, to support the petition for review in this case. I have a longstanding interest, as an academic and as a sometime advocate, in ensuring the California Environmental Quality Act facilitates sound policy and is effectively implemented and enforced. Review of the Court of Appeal's opinion in this case will help to settle an important question of law (California Rules of Court, Rule 8-500, subd. (b)): whether and under what circumstances a local government must incorporate the existence of rental units on a project site that are still present but currently vacant, and that will be physically removed if the project is approved, in its baseline for analyzing impacts relating to displacement of residents and associated housing, transportation, and other dynamics.

California faces both a housing crisis and a climate crisis. As the state works to address homelessness and build the housing we need for our future, it is crucial that we work to lower our transportation-related greenhouse gas emissions¹ and address the significant social equity problem of the displacement of low-income residents, including renters.²

¹ California Air Resources Board, 2018 Progress Report, California's Sustainable Communities and Climate Protection Act (2018), available at https://ww2.arb.ca.gov/sites/default/files/2018-11/Final2018Report_SB150_112618_02_Report.pdf.

² See generally The Urban Displacement Project, <https://www.urbandisplacement.org/research> (collecting research materials on displacement in California).

Review of local government land-use decisions under CEQA is an important tool for ensuring that new housing development addresses, rather than exacerbates, these problems, where new development may have significant impacts on the physical environment. I urge the Court to consider three significant points as it considers whether to review the Court of Appeal’s opinion.

First, as explained by Petitioners in their Petition for Review, the existing structure on the property represents the baseline physical conditions existing at the time the environmental analysis began. While the Court of Appeal concluded that “the relevant baseline in 2015 was a vacant building that already had been withdrawn from the residential rental market” (Opinion at p. 17), Petitioners point out that units may be able to be re-rented under rent-controlled conditions—and if the approvals at issue in this case were denied, it is possible that the property could have continued operation as a residential apartment building. (Petition for Review, at pp. 34-35, 39-40.) Thus, CEQA review should include analysis of the housing, displacement, and related impacts of replacing the structure and use with transient visitor-serving lodging.

Second, when jurisdictions remove housing from the market that is available to low-income people, that removal often will have the potential for significant environmental impacts on the environment. These impacts may arise in a number of ways. For example, displaced individuals and families in California often move to areas that are further away from urban centers and further from public transit. This may increase greenhouse gas emissions and other impacts from increased vehicle miles traveled.³ Moreover, overall decline in transit use may result, in part, from the cumulative effect of housing displacement of low-income residents.⁴ The California Air Resources Board has referenced the multiple reasons low-income affordable housing and protection for renters are important to State policy goals, noting that “[p]rotecting renters and maintaining an ample supply of affordable housing for people who would like to stay in

³ See California Air Resources Board, 2018 Progress Report, *supra*, for an in-depth discussion of the need for reduction of vehicle miles traveled to meet the State’s greenhouse gas reduction goals, and the challenges associated with the effort to reduce VMT to date.

⁴ See *id.* at pp. 45-48 (discussing the role of displacement in rising GHG emissions, and implications for State climate change mitigation policy and research); Michael Manville, Brian D. Taylor, and Evelyn Blumberg, *Falling Transit Ridership: California and Southern California 9* (Southern California Association of Governments 2018), available at https://www.scag.ca.gov/Documents/ITS_SCAG_Transit_Ridership.pdf.

their current neighborhood not only avoids VMT as people commute back for work and social events, but also preserves neighborhood connections that can be invaluable.”⁵ For projects replacing housing with a hotel or other transient occupancy rather than with new housing, the contribution to these problems at a cumulative level may be even more severe.

Finally, the inequities associated with loss of housing for lower-income residents in the urban core are significant. The Ellis Act has facilitated this housing loss and has made housing inequity worse.⁶ Effectively eliminating CEQA review for projects where tenants have been evicted prior to current development plans is likely to further exacerbate housing loss and inequity by providing an incentive for owners to structure their Ellis Act evictions and development plans to avoid CEQA review.

In light of the important stakes here and the potential for the Court of Appeal’s opinion to exacerbate both I encourage the Court to accept this case for review, to ensure CEQA adequately addresses the full range of environmental impacts associated with taking urban rental units off the housing market.

Respectfully Submitted,



Sean B. Hecht

⁵ California Air Resources Board, 2018 Progress Report, *supra*, at p. 46.

⁶ See, e.g., Erin McElroy, Mapping Ellis Act Evictions Throughout California (2017), <https://www.kcet.org/shows/city-rising/mapping-ellis-act-evictions-throughout-california>.

PROOF OF SERVICE
HERO v. City of Los Angeles, No. S257793

I am employed in the County of Los Angeles, State of California. I am over the age of eighteen and am not a party to the within action; my business address is 405 Hilgard Avenue, Los Angeles, California 90095. On August 9, 2019, I served true copies of the following document(s) described as:

Amicus Curiae Letter in Support of Review

on the parties in this action as follows:

SEE ATTACHED SERVICE LIST

BY ELECTRONIC SERVICE: I caused a copy of the document described above to be sent via TrueFiling's electronic service system to the persons at the email addresses listed below. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

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

Executed on October 14, 2019, at Los Angeles, California.

 /s/ Sean B. Hecht
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