

1 ROB BONTA
Attorney General of California
2 CHRISTINA BULL ARNDT
Supervising Deputy Attorney General
3 MATTHEW T. STRUHAR (SBN 293973)
HALLIE E. KUTAK (SBN 322407)
4 Deputy Attorneys General
1300 I Street, Suite 125
5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 210-7246
Fax: (916) 327-2319
7 E-mail: Matthew.Struhar@doj.ca.gov
Attorneys for Defendant California Department of
8 *Housing and Community Development*

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA

10 COUNTY OF SAN DIEGO

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13 **CITY OF ENCINITAS,**

14 Plaintiff,

15 v.

16
17 **THE CALIFORNIA DEPARTMENT OF**
HOUSING AND COMMUNITY
18 **DEVELOPMENT, AND DOES 1-100,**
19 **INCLUSIVE,**

20 Defendants,

21 v.

22 **PRESERVE PROPOSITION A,**

23 Intervenor-Defendant.
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27
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Case No. 37-19-00047963-CU-OR-NC

**REQUEST FOR JUDICIAL NOTICE IN
SUPPORT OF RESPONSE BRIEF OF
DEFENDANT CALIFORNIA
DEPARTMENT OF HOUSING AND
COMMUNITY DEVELOPMENT**

Date: June 3, 2021, 2:00 p. m.
Dept. : N-28
Judge: Hon. Earl H. Maas, III

Action Filed: September 6, 2019

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REQUEST FOR JUDICIAL NOTICE

Pursuant to Evidence Code sections 452 and 453 and the following Memorandum and Points of Authorities, the California Department of Housing and Community Development (HCD) respectfully requests that this Court take judicial notice of the following documents, all of which are attached to the accompanying declaration of Robin Huntley and filed herewith:

Exhibit Q: Resolution of Adoption 2021-16, adopting of Encinitas’ housing element for the sixth cycle;

Exhibit R: Encinitas’ Sixth Cycle Housing Element, Section 1: Housing Element Policy Program.

Exhibit S: Encinitas’ Sixth Cycle Housing Element, Appendix B: Housing Profile Report.

Exhibit T: Excerpt of Encinitas’ Sixth Cycle Housing Element, Appendix C: Adequate Sites Analysis Part 1.

Exhibit U: Encinitas’ Letter of Submittal

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **INTRODUCTION**

3 The Evidence Code mandates judicial notice of matters that comport with the requirements
4 of Evidence Code section 452, provided that the requesting party: (1) gives adequate notice to the
5 adverse party; and (2) includes sufficient information to enable the Court to take judicial notice.
6 (Evid. Code, §§ 452 and 453.) The documents referenced in this request fall directly within the
7 category of matters appropriate for judicial notice under the Evidence Code.

8 **ARGUMENT**

9 Defendant respectfully requests, pursuant to California Evidence Code section 452,
10 subdivisions (b) and (c), that the Court take judicial notice of Encinitas’ official acts and its public
11 agency records relating to Encinitas’ policies. (See Gov. Code, § 65580, et seq.)

12 Pursuant to California Evidence Code section 452, subdivision (b), the Court may take
13 judicial notice of “[r]egulations and legislative enactments issued by or under the authority of the
14 United States and of any state of the United States.” The documents attached to the
15 accompanying Declaration of Robin Huntley as Exhibits Q through T are part of Encinitas’
16 housing element and are thus “legislative enactments issued by ... [a] public entity.” (Evid. Code,
17 § 452, subd. (b).)

18 Pursuant to California Evidence Code section 452, subdivision (c), the Court may take
19 judicial notice of “[o]fficial acts of the legislative, executive, and judicial departments of the
20 United States and of any state of the United States.” The Court is entitled to take judicial notice of
21 the records and files of state administrative agencies. (See *Hogen v. Valley Hospital* (1983) 147
22 Cal.App.3d 119, 125 [court took judicial notice of records of the Board of Medical Quality
23 Assurance]; *Chas. L. Harney, Inc. v. State of California* (1963) 217 Cal.App.2d 77, 85–86 [court
24 took judicial notice of records of the State Board of Control and Office of State Controller].)
25 Encinitas submitted the documents attached to the accompanying Declaration of Robin Huntley
26 as Exhibits Q through U by letter to HCD dated April 12, 2021, and HCD received the documents
27 on April 14, 2021. They are thus the records and files of a state administrative agency, and as
28 such, this Court is entitled to take judicial notice of them.

1 HCD's request that this Court take judicial notice of Encinitas' sixth cycle housing element
2 should not be construed as a finding that the housing element substantially complies with the
3 provisions of Article 10.6 of the Government Code. (See Gov. Code, § 65585, subd. (h).)

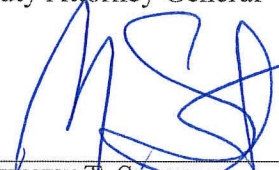
4 **CONCLUSION**

5 For the forgoing reasons, Respondents respectfully requests the Court take judicial notice of
6 Exhibits Q through U.

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9 Dated: May 6, 2021

Respectfully Submitted,

10 ROB BONTA
11 Attorney General of California
12 CHRISTINA BULL ARNDT
13 Supervising Deputy Attorney General
14 HALLIE E. KUTAK
15 Deputy Attorney General

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17 _____
18 MATTHEW T. STRUHAR
19 Deputy Attorney General
20 *Attorneys for Department of Housing and*
21 *Community Development*

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DECLARATION OF SERVICE BY E-MAIL ONLY

Case Name: *City of Encinitas v. CA Dept. of Housing and Community Development, et al.*

Case No.: **37-19-00047963-CU-OR-NC**

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar, at which member's direction this service is made. I am 18 years of age or older and not a party to this matter. I am familiar with the business practice at the Office of the Attorney General regarding the electronic service of documents. In accordance with that practice, on May 6, 2021, I served the attached **REQUEST FOR JUDICIAL NOTICE IN SUPPORT OF RESPONSE BRIEF OF DEFENDANT CALIFORNIA DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT** by transmitting a true copy via electronic mail addressed as follows:

Dolores Bastian Dalton
Barbara Kautz
Goldfarb & Lipman LLP
1300 Clay Street, Eleventh Floor
Oakland, CA 94612
Email address: ddalton@goldfarblipman.com
Email address: bkautz@goldfarblipman.com

Attorneys for City of Encinitas

Everett L. DeLano
M. Dare DeLano
DeLano & DeLano
104 W. Grand Avenue, Suite A
Escondido, CA 92025
Email address: everett@delanoanddelano.com
Email address: dare@delanoanddelano.com

Attorneys for Preserve Proposition A

I declare under penalty of perjury under the laws of the State of California and the United States of America the foregoing is true and correct and that this declaration was executed on May 6, 2021, at Sacramento, California.

Leticia Aguirre
Declarant

/s/ Leticia Aguirre
Signature