PROPOSED TENTATIVE

On March 7, 2025, petitioner S.Y. Valley Residents Association (S.Y. Valley) filed a verified petition for writ of mandate against respondent City of Solvang (Solvang) and defendants/real-parties-in-interest Joshua Richman and Lots on Alamo Pintado, LLC (real parties in interest), raising four causes of action: 1) violation of Government Code[1] section 65941.1, subdivision (a), et seq. [detailing requirements for application for a housing development project]; 2) a violation of section 65589.5, subdivision (d) [a local agency shall not disapprove the housing development project in a manner that renders it infeasible, including through the use of design review standards, unless it makes written findings, based upon a preponderance of evidence]; 3) violations of sections 65941.1 subdivision (d) [rules outlining submittal of information required for housing development project concerning revisions with changes by 20 percent or more] and 65943 [rules governing completeness of application for housing developmental project]; and 4) declaratory and injunctive relief. S.Y. Valley asks the court to vacate the December 23, 2024, determination of completeness made by Solvang as to the formal development application for the proposed Wildwood development project (proposed project) submitted by real parties in interest. Specifically, S.Y. Valley ask the court to deem the preliminary application for the proposed project incomplete, expired, and void; deem the full application for the proposed project "incomplete and void"; deem Solvang's City Planning Manger's actions "to unilaterally revise the Full Application as" violative of existing law; and direct Solvang to take no further action with respect to processing and/or approving the full application of the proposed project.

According to the operative pleading, the proposed project involves construction of a 100-unit multi-family housing development, consisting of seven (7) buildings with reduced on-site parking and setback requirements on an undeveloped 5.48-acre site, along with internal roadways and other improvements involving a 1.32-acre nonexclusive easement over a third party's property. S.Y. Valley summarize their challenges in paragraph 4 of the operative pleading as follows: "In deeming the Full Application for the Proposed Project complete, failing to deem both the Preliminary Application and Full Application void and incomplete due to [Real Party in Interests'] failure to provide the statutorily-required information and documentation, and unilaterally revising the Application and Propose Project specifications to comport with low-income housing requirements of SB 333, the City has violated the Builder's Remedy Statute . . . ."

There are two demurrers to the pleading. The first demurrer was filed by Solvang. It asks first for judicial notice of a number of documents. As to merits, Solvang challenges all four causes of action (the first three involving a writ of mandate and the fourth for declaratory relief) based on claims that review can only be made on a final approval decision, not on an determination that the application is complete, as that is an intermediate or interlocutory decision that falls outside the purview of traditional or administrative mandamus and declaratory relief; according to Solvang, S.Y. Valley failed to comply with the rules of exhaustion, finality, and

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[1] All further statutory references are to the Government Code.

ripeness. Solvang claims (alternatively) that the court should sustain the demurrer because what plaintiff has offered is an impermissible writ of prohibition, not a writ of mandate. On June 4, 2025, S.Y. Valley filed an objection to the judicial notice request, and opposition to the merits. A reply was filed on July 29, 2025. All briefing has been reviewed.

The second demurrer was filed by real-parties-in-interest. They initially ask the court to take judicial notice of the "Preliminary Application Form" filed with the Solvang, which was the preliminary application form for the project (Exhibit A), as well as a copy of the Individual Quitclaim Deed showing ownership in the property by Lots on Alamo Pintado, LLC (Exhibit B). Real-parties-in interest argue the court should sustain the demurrer because S.Y. Valley failed to exhaust administrative remedies. They also claim that the fourth cause of action for declaratory relief fails against Mr. Richman because the latter was acting solely as an agent of Lots on Alamo Pintado, LLC, and thus should not be sued in his individual capacity. On July 23, 2025, SY Valley filed an objection to the request for judicial notice as to Exhibit A, and opposition to the demurrer as whole. A reply was filed on July 29, 2025. All briefing has been reviewed.

Each demurrer will be addressed separately.

A) Demurrer by Solvang

The court will examine in seriatim all requests for judicial notice, discuss the merits of procedural arguments advanced by S.Y. Valley, detail the appropriate legal principles that frame the issues before the court, and then address the merits of the arguments advanced.

1) Judicial Notice

Defendant Solvang asks the court to take judicial notice of documents in two exhibits. Exhibit A is the City of Solvang's Municipal Code, current through "December 9, 2024". Exhibit A consists of 1) City of Solvang's Municipal Code, Title 2, section 2-1-4, which details "duties and responsibilities" of the Planning Commission; 2) Title 11, Chapter 17, section 11-17-3, involving appeals to the planning commission and city council; and 3) Title 12, Chapter 3m section 12-3-2, discussing tentative maps. Exhibit B is a letter titled "Notice of Application Deemed Complete (LUP-23=242 -Wildwood (APN 139-530-001,002)[,]" authored by Solvang's Planning Manager and sent to the real parties in interest, indicating that the application for the proposed project involved "sufficient information consistent with . . . section 65940.1(a)(1)," and thus deeming the application complete in line with section 65943(a). The letter made it clear – "deeming the project complete does not constitute project approval. . . ." (Underscore in original.)

S.Y. Valley in turn asks the court to take judicial of three exhibits. Exhibit 1 is the Solvang's City Council's "Agenda Packet for December 9, 2024, Regular and Adjourned Regular Meeting"; Exhibit 2 is the Solvang City Council's Minutes for Monday, December 9, 2024; and Exhibit 3 is copy of Solvang's Municipal Code, Title 11, Chapter 17, sections 11-17-2 (fees), 11-17-3 (ordinance text amendments/rezones), 11-17-4 (public hearing notices), and 11-17-5 (appeals).

The court grants Solvang's request to take judicial notice of Exhibit B, as well as all documents requested by plaintiff. S.Y. Valley objects to taking judicial notice of Exhibit A of Solvang's request, claiming generically that Solvang's versions of the Municipal Code were not in fact operative as of December 9, 2024, as they took effect " 30 days after December 9, 2024." S.Y. Valley explains that the code sections in Exhibit A were enacted pursuant to Ordinance 24-0378 on December 9, 2024. As noted on page 88 of Exhibit 1 from S.Y. Valley's judicial notice request, which involves a copy of Ordinance 24-0378, the ordinance was effective 30 days after December 23, 2024, meaning Solvang's version of Section 11-17-3 was inoperative at the time of any appeal.

The court finds that S.Y. Valley's challenges to Exhibit A relate only to section 11-17- 3 (governing appeals), not the other two provisions submitted, as only the former is governed by the Ordinance 24-0378. Accordingly, the court grants Solvang's request to take judicial notice of sections 2-1-4 and 12-3-2 of Solvang Municipal Code (contained in Exhibit A).

As to section 11-17-3 of the Solvang Municipal Code, the court agrees that Solvang's version of section 11-17-3 was not operative at any relevant time, and thus is irrelevant to this lawsuit. According to Solvang's version of this provision, the "decisions of the planning manager that are appealed consistent with chapter 16 shall be in writing, and the accompanying fee must be filed with the city clerk within 10 calendar days of the date of the decision of the planning manager." The date of the planning manager's decision at made on December 23, 2024. Ten calendar days later would be no later than January 2, 2025, 6 days before the operative date of new section 11-17-3. Solvang's version thus has no relevance to the present matter. Accordingly, the court denies Solvang's request to take judicial notice of section 11-17-3 operative on January 8, 2025, as attached to its judicial notice request.

2) Alleged Procedural Improprieties

In opposition, S.Y. Valley contends that the court should overrule the demurrer in its entirety because Solvang "failed to timely file the Declaration of Daniel Parlow Regarding Meet and Confer and 30-Day Extension to Code of Civil Procedure [section] 430.41, subdivision (a)(2). Mr. Parlow's declaration was filed on April 16, 2025. According to S.Y. Valley, it personally served Solvang on March 14, 2025 with the summons and complaint, meaning a responsive pleading was due 30 days later, on April 14, 2025; Mr. Parlow's declaration was thus two days late. According to S.Y, Valley, the belated filing put it in "default," rendering the automatic 30-day extension provided by Code of Civil Procedure section 430.41 inoperative; this provision provides that if the parties are not able to meet and confer at least 5 days before the date the responsive pleading is due, "the demurrer party shall be granted an automatic 30-day extension of time within which to file a responsive pleading by filing and serving," "on or before the date on which the demurrer would be due, a declaration stating under penalty of perjury that a good faith attempt to meet and confer was made and explaining the reasons why the parties could not meet and confer . . . ."

S.Y. Valley misunderstands how entry of default works. It is not self-executing. It was incumbent on it to seek and file an entry of default, which would then extinguish Solvang's

ability to file the declaration two days after the date a responsive pleading was due. It is settled, for example, that an answer may be filed after 30 days when no entry of default has been obtained. (See, e.g., *Goddard v. Pollock* (1974) 37 Cal.App.3d 137, 141 [it is now well established by the case law that where a pleading is belatedly filed, but at the time when a default has not yet been taken, the plaintiff, has, in effect, granted the defendant additional time within which to plead and he is not strictly in default]; see also *Fiorentino v. City of Fresno* (2007) 150 Cal.App.4th 596, 605, fn. 3 [until plaintiff files a request for entry of default, courts have deemed plaintiff to have in effect "allowed" the defendant "further time" to response].) These rules apply here. S.Y. Valley, having not obtained an entry of default, is deemed to have consented to the delay. S.Y. Valley's challenge is thus without merit.

S.Y. Valley also argues that Solvang failed to properly meet and confer, as required by Code of Civil Procedure section 430.41, as (according to S.Y. Valley) Solvang made no efforts to meet and confer prior to April 14, 2025 "via outreach to [S.Y. Valley's] counsel . . . ," in violation of the above-mentioned statutory provision. According to the declaration of Daniel Parlow, Solvang's counsel, he tried in good faith to "engage in the meet and confer process five days before the demurrer was due. However, due to my significantly impacted schedule over the past two weeks and the complexity of this mater, I was not able to complete my evaluation (including necessary legal research to support meet and confer) and engage in meet and confer process five days before the demurrer." He claims he emailed counsel on April 14, 2025, requesting a telephonic meeting between April 16, and April 22, 2025. The court is willing to take Mr. Parlow at face value, and find that he satisfied the requirements of the statute based on these representations. In any event, it is settled that an insufficiency in the meet and confer process does not provide grounds for overruling a demurrer. (Code of Civ. Proc., § 430.41, subd. (a)(4); *Dumas v. Los Angeles County Bd. of Supervisors* (2020) 45 Cal.App.5th 348, 355.) This deficiency (assuming there was one) is no basis to overrule the demurrer.

3) Legal Background

At issue in this lawsuit are the streamlined procedures contemplated by the Housing Accountability Act, the Housing Crisis Act of 2019 (Senate Bill 330), and the Permit Streamlining Act. S.Y. Valley challenges Solvang's determination (made by the Planning Manager) that the real-parties-in interest's application for the proposed project was deemed complete under sections 65940, subdivision (a)(1) and 65943, subdivision (a). S.Y. Valley claims real-parties-in-interest "never fully and correctly completed" the forms for a preliminary application, failed to satisfy the requirements of section 65941.1, and thus the application remains incomplete; accordingly, Solvang erroneously deemed the application complete. It is undisputed that Solvang has never decided to final approve the housing development project. At issue is whether the preliminary assessment of completeness allows for judicial review through traditional mandamus and declaratory relief even though this determination involves an intermediate stage of the proceedings, before final approval of the project, as Solvang indicated in its December 23, 2024 letter.

We start with what the case law clearly tells us. "In the context of administrative proceedings, a controversy is not ripe for adjudication until the administrative process is

completed and the agency makes a final decision that results in a direct and immediate impact on the parties." (*Santa Barbara County Flower & Nursey Growers Assn. v. County of Santa Barbara* (2004) 121 Cal.App.4th 864, 875.) There are actually a number of components factored into this conclusion, including ripeness, exhaustion and finality (related but distinct concepts). (*Casa Blanca Beach Estates Owners Assn. v. County of Santa Barbara* (2024) 102 Cal.App.5th 1303, 1308). An administrative decision is final i.e., ripe, when the agency has exhausted its jurisdiction and possesses no further power to consider or rehear the claim. (*Ibid*.) Ripeness looks at whether a controversy is "definite and concrete," and prevents courts from "entangling themselves in abstract agreements over administrative policies" and protects administrative agencies from "judicial interference until and administrative decision has been formalized and its effects felt in a concrete way by the challenging parties. (*Id.* at p. 1309.) A decision attains the requisite administrative finality when the agency has exhausted its jurisdiction and possesses no further power to reconsider or hear the claim. (*Long Beach Unified Sch. Dist. v. State of California* (1991) 225 Cal.App3d 155, 169.) Finality may be defined either expressly in statutes governing the administrative process or it may be determined from the framework in the statutory scheme. (*California Water Impact Network v. Newhall County Water Dist.* (2008) 161 Cal.App.4th 1464, 1485.) Exhaustion of administrative remedies applies when there is an administrative remedy to question government action, and assures prerequisites are met before legal action is taken. (*Id.* at p. 1308.) A court's intervention before an administrative agency has resolved the claim constitutes jurisdictional interference. (*Ibid.*) These doctrines apply equally well to both administrative and traditional mandate. (*California Water Impact Network, supra*, 161 Cal.App.4th at pp. 1485-1485 [court need not decide which form of mandate would apply because petitioner failed to show finality and exhaustion].) Further, a party cannot avoid the rules involving finality and exhaustion by filing a declaratory or injunctive relief cause of action. (*Casa Blanca Beach Estates Owners' Assn., supra*, 102 Cal.App.5th at p. 1311; see also *Contractors' State License Bd. v. Superior Court* (2018) 28 Cal.App.5th 771, 780 [same].) Solvang relies on these principles in arguing that the court should sustain the demurrer because the "completed decision" is not final and thus S.Y. Valley has failed to exhaust.

S.Y. Valley seems to acknowledge these rules, but claims in opposition that the court has jurisdiction to review Solvang's determination that an application is complete via traditional mandate and declaratory relief because this determination itself is a "final" decision under a number of statutory schemes, which (according to S.Y. Valley), Solvang has overlooked.

First, according to S.Y. Valley, Solvang has ignored the "Builder's Remedy Law," in section 65589.5, arguing that "developers are legally permitted to challenge either a city's completeness determination" or "a city's failure to make a completeness determination on a pending application," citing sections 66589, subdivisions (k) to (n). S.Y. Valley insists that under these provisions, when an application is deemed complete, the decision "vests certain rights ***with the applicant/developer*** in connection with the proposed project," and the vesting of those rights "in connection with a completeness determination on a development application underscores the true finality of the local agency decision," allowing judicial review, with citations to section 65589.5, subdivisions (d)(5), (j)(1), and (o), as well as to *Save Lafayette v.*

City of Lafayette (2022) 85 Cal.App.5th 842, and *Redondo Beach Waterfront LLC v. City of Redondo Beach* (2020) 51 Cal.App.5th 982. S.Y. Valley underscores these arguments by arguing that Solvang has also overlooked the provisions of the Permit Streamlining Act (§ 65920, et seq.), as these provisions "set specific time limits for local agencies to process development applications," and a "completeness determination is a key step in this process. A planning manager's incorrect or arbitrary determination on an application's completeness can impede the statutory mandate for timely processing. Judicial review is necessary to ensure agencies comply with these statutory duties under the [Permit Streamlining Act]."

S.Y. Valley concludes its argument in part 3 of its opposition by observing that (as pleaded in the verified petition) it tried to "appeal the determination of completeness" based on its version of Solvang Municipal Code (Exhibit 3 of its judicial notice request).[2] As pleaded in paragraph 81 of the verified petitioner, S.Y. Valley alleges that on January 2, 2025, it "hand delivered" and filed its timely appeal with Solvang concerning the December 23, 2024 completeness determination by the planning manager, only to be told that "City would not accept [the] appeal paperwork and appeal fee payment on the advice of [] Interim City Attorney, " as the actions by Planning Manger Castillo ". . . were not appealable under the City's Municipal Code . . . ."; Solvang "only allows appeals from the Planning Manager's decision to issue permits and other land entitlements other than those that are expressly appealable to the Planning Commission." (¶ 84 .) S.Y. Valley is not challenging Solvang's decision to reject the appeal, but cites the fact as support to its claim of finality and thus judicial review.

4) Merits

After some consideration, the court is not persuaded that judicial view via traditional mandate and/or declaratory relief is appropriate following Solvang's determination that the application was complete, as contemplated pursuant section 65941.1 and 65943, as it is not a final decision. It is worth keeping in mind that the Housing Crisis Act of 2019 (through SB 330) amended various provision of the state's Planning and Zoning Law, including the Housing Accountability Act, to create new, applicant-favorable process for housing development projects, with the goal of limiting the ability of local governments to inhibit, delay, disapprove, or improperly condition housing requirements that meet certain objective requirements, and also significantly limits opportunities for project opponents of local agencies to challenge the approval of such projects. SB 330 (2019 Stats. ch. 654), added sections 65859.5, subdivision (o), section 65941.1, among others, amending section 65943. (Miller & Starr, 7 Calif. Real Estate (4th ed. 2025), Chapter 21, §21:12.) Miller & Starr in fact describes the completeness application procedures as a "ministerial streamlined approval process . . . ." (*Id.* at § 12:12.) These limitations are seemingly reflected in section 65941.1, subdivision (e)(3) (formerly (d)(3)), overlooked by S.Y. Valley, which expressly reads as follows: "This section shall ***not require an***

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[2] Title 11, section 11-17-5, provides in Subpart (C)(1), under the heading "Appeals to the City Council," as follows: "The decisions of the planning manager (except where the same is appealable to the planning commission under Subsection B of this section), or planning commission, may be appealed to the city council pursuant to title 1, chapter 6 of this code by the applicant or any interest party adversely affect by such decision."

affirmative determination by a city, county, or city and county regarding the completeness of a preliminary application or a development application for purposes of compliance with this section." Section 65943(a) in turn provides simply (as relevant for our purposes) that within 30 calendar days after an application for development project has been received, "the agency shall determine in writing whether the application in complete and shall immediately transmit the determination to the applicant for the development project." (See also § 65589.5, subd. (h)(5) ["The local agency shall bear the burden of proof in establishing that the application is not complete"]; § 65589.5, subd. (h)(10) ["determined to be complete" means that the applicant has submitted a complete application pursuant to section 65943"].) These provisions, collectively, reflect the Legislature's desire to streamline all preliminary completeness determinations, and thus limit, *not increase*, opportunities to challenge the approval of development projects at its interlocutory stage. As noted by Miller & Starr: "The overall effect is to provide a road map for housing development applicants to overcome local opposition and force local agencies to consider and approve or disapprove housing development projects with a minimum of delay or indirection, in order to achieve the provision of new housing in compliance with state law regardless of local government policies or preferences." (Miller & Starr, *supra*, § 21:12.) The court agrees with this assessment. This statutory language counters the general theme advanced by S.Y. Valley that the Legislature intended to allow challenges to the completeness determinations via judicial review, at least without some final decision made.[3]

More specifically, the court is not persuaded by the detailed arguments advanced by S.Y. Valley in its opposition, all offered to support its claim that judicial review of the completeness determination is authorized. Initially, S.Y. Valley's reliance on *Britton v. County of Santa Cruz* (2020 N.D. Cal.), 2020 WL 4197609 is misplaced. True, pursuant to section 65943, subdivision (c), a local agency must provide "a process for the applicant to appeal" a decision that the application is ***incomplete***, either to the governing body of the agency or, if there is no governing body, to the director of the agency, and "shall provide that right of appeal to the governing body or, at their option, the planning commission, or both." In *Britton*, plaintiffs received written notice from defendant County of Santa Cruz that their request to build a housing development project permit was incomplete. Plaintiffs were directed to appeal to the Planning Director. Plaintiffs filed an appeal challenging the decision that their application was incomplete, and on January 22, 2019, plaintiffs were told in writing that application was deemed "complete," although in a March 8, 2019, letter, defendants informed plaintiffs that a geotechnical report had not been accepted by county staff, rendering the application in limbo (deemed complete while continuing to refuse to accept the report). Plaintiff filed a complaint, originally to the superior court, for declaratory relief, claiming the appeal process violated section 65953, and a claim under 42 U.SC section 1983 for violations of due process. Defendants removed the matter to

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[3] It perhaps is telling that S.Y. Valley has failed to cite a single case in which a traditional mandate or declaratory relief action has been sanctioned or allowed at the stage in which a government agency has found the developer's application is complete.

federal court. The *Britton* federal district court found it had no jurisdiction over either claim, did not decide their merits, and remanded back to state court. (*Id*. at p. 6). *Britton* in no way stands for the proposition that a writ of mandate or declaratory relief cause of action is appropriate to challenge the "ministerial decisions" of the government agency ***when the body deems the application complete.*** And certainly nothing in *Britton* suggests a group such as S.Y. Valley, challenging a completeness determination, is similarly situated to a developer whose application has been deemed incomplete.

S.Y. Valley's reliance on section 65589.5, subdivisions (d)(5), (j)(1), (k)(1)(A)(i), (o), to support its argument for traditional mandamus and declaratory relief petition also seems misplaced. We start with section 65589.5, subdivision (d)(5), which provides in relevant part that "for a housing development for very low, low-, or moderate-income households . . ., a local agency shall not disapprove the housing development project . . . or condition approval in a manner that renders the housing development project . . . infeasible . . ., unless it makes written findings, based upon a preponderance of evidence in the records, as to one of the following: . . . (5) On the date an application for the housing development project or emergency shelter was deemed complete, the jurisdiction had adopted a reviewed housing element that was in substantial compliance with this article, and the housing development project . . . was inconsistent with both the jurisdiction's zoning ordinance and general plan land use designation as specified in in any element of the general plan." This provision seems clear – it allows for judicial review only if there is a disapproval involving low-end housing under certain circumstances – which did not occur. The same is true for section 65589.5, subdivision (j)(1), which provides that when a "proposed housing development project complies with applicable, objective general plan, zoning, and subdivision standards and criteria, including design review standards, in effect at the time that the application was deemed complete, but the local agency proposes ***to disapprove*** the project or to impose condition that the project be developed a lower density, the local agency shall base its decision regarding the proposed housing development project upon written findings supported by a preponderance of the evidence on the record that" certain conditions apply. Here, neither approval nor disapproval of the project has been made – just a preliminary determination by Solvang that the application was complete. The statutes cannot be stretched to authorize something they no not remotely contemplate.

Section 65589.5, subdivision (k)(A)(i) is equally unhelpful to S.Y. Valley. This provision provides that "a person who would be eligible to apply for residency in the housing development project or emergency shelter, or a housing organization, may bring an action in court to enforce this section, in order to enforce the following, (as relevant for our purposes[4]): "(iii):The local agency in violation of subdivision (o) required or attempted to require a housing development project to comply with an ordinance, policy or standard not adopted and in effect when a preliminary application was submitted"; or iv) "the local agency violated a provision of this

[4] Subdivision (i) and (ii) provide for review of the local agency's decision when it disapproves of a housing development project under circumstances. These provisions are inapplicable here.

section applicable to a builder's remedy project" (as defined in se § 65589.5, subd. (h)(11)[5].) Subdivision (o) in turn provides that "subject to paragraphs (2)(6), and (7), and subdivision of Section 65941.1, a housing development shall be subject only to the ordinances, policies, and standards and adopted in effect when a preliminary application including all of the information required by subdivision (a) of section 65941.1 was submitted." None of these provisions applies here. There is no claim that Solvang required a housing development project to comply with an ordinance, policy or standard not adopted and in effect when the preliminary application was submitted, and there is no indication of a violation of a builder remedy law. These provisions provide no basis for S.Y. Valley's claim that it can pursue a judicial remedy at this stage based on its claim that the application was actually incomplete.

Further, nothing in *Save Lafayette v. City of Layette* (2022) 85 Cal.App.5th 842 advances S.Y. Valley's argument. There, the applicant developer completed an application for a housing development project, and the City of Lafayette certified an EIR in 2013. Before the project was approved, the parties agreed to suspend processing of the original project while a small, alternative proposal was pursued. When that alternative proved fruitless, the original proposal was revived, and the City "finally approved resumed project in 2020, after preparation of an addendum to the original EIR." A citizens group (Save Lafayette) petitioned for a writ of mandate, claiming the project conflicted with the general plan, the EIR was otherwise inadequate, and a supplemental EIR was required. The trial court on the merits ruled in favor of City of Lafayette.

The appellate court affirmed. As to the issue concerning the general plan and zoning consistency, the appellate court noted the interplay between the Housing Accountability Act (section 65589.5) (HAA) and the Permit Streamlining Act (§ 65920, et seq.) (PSA). Under the HAA, noted the court, even a project that is presently consistent with the current general plan or zoning standards "may need to be approved if it was consistent with the standards existing when the application was deemed complete." (*Id*. at p. 850.) Once the development application is deemed complete, the PSA establishes deadlines for a public agency to approve or disapprove, deadlines that vary with the extent of environmental review required. The goal is to relieve applicants from protracted and unjustified delays, and the time limits cannot be waived. (Id. at p. 852.) The appellate court ultimately observed as relevant for our purposes that the applicant did not lose the benefit under the HAA once it submitted a complete application in 2011, after the City failed to approve the project within the time frames contemplated by the Permit Streamlining Act. Any inconsistency with the 2018 general plan was irrelevant. (*Id*. at p. 782.) Again, there is nothing in this case to suggest that judicial review is appropriate when a public agency simply deems the application complete. Notably, the citizen group Save Lafayette did not challenge in court any determination that the developer's application was complete at the time

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[5] A "builder's remedy project" means the project contains certain criteria for very low, low-, or moderate-income households, the jurisdiction did not have a housing element that was in substantial compliance with this article, and the project has certain population density, along with other requirements.

that determination was made; it filed a traditional writ of mandate after an EIR was filed, and ***after*** the City approved the building in 2020 and an addendum to the original EIR.

Nor is there anything in *Redondo Beach Waterfront, LLC v. City of Redondo Beach* (2020) 51 Cal.App5th 982 that aids S.Y. Valley's contention. At issue in *Redondo Beach Waterfront, LLC* was whether the developer had vested rights under section 66498.1, which provides that when a local agency approves or conditionally approves a vesting tentative map, that "approval shall confer a vested right to proceed" with the development in substantial compliance with the ordinances, policies, and standards "in effect at the time the vesting tentative map is approved or conditionally approved." The facts in the case were simple. In 2010, voters voted on Measure G, which authorized certain square footage of a new development along the waterfront. Zoning ordinances were amended to permit the development. The Coastal Commission certified the amendment and the newly passed zoning ordinances went into effect. In June 2016, developer submitted an application for approval of the building project, which included a vesting tract map. The developer was notified on June 23, 2016, that its application for approval of the vesting tentative tract map was "deemed complete." In August 2016, an EIR was certified, and coastal development permits, conditional-use permits, and harbor-design review and maps were all approved. The City Council approved the project on October 18 and 19, 2016. The project thus moved forward. Meanwhile, in an election on March 7, 2017, the voters passed Measure C, amending Measure G, thereby impacting the building project. Developer filed a writ of mandate and complaint for declaratory relief, challenging the impact of Measure C. The trial court found that the developer had obtained statutory vested rights against the City under section 66498.1, and could therefore proceed with the project.

The appellate court affirmed. It concluded that section 66498.1 is clear and unambiguous, and the facts were undisputed – developer clearly had vested statutory rights in the project. Further, it found the Coastal Act, which is enforced by the Coastal Commission, does not preclude application of the vesting statute in section 66498.1. (*Id.* at pp. 998-999.) As relevant for our purposes, under these circumstances, the appellate court noted that the developer's vested rights challenge was "ripe" for determination. "The ripeness requirement, a branch of the doctrine of justiciability, presents courts from issuing advisory opinions." A controversy is ripe when it has reached a point to permit an intelligent and useful decision to be made. "Here, it is plain that an actual controversy over the Developer's statutory vested rights exists." As the court found, following the passage of Measure C, the City took the position that "the project would be impacted by Measure C, a result in conflict with the statutory vested rights. (*Id.* at pp. 1000-1001.)

Again, nothing here remotely resembles the situation presented in *Redondo Beach Waterfront, LLC.* No statutory vested right has materialized into a ripe controversy. Indeed, the facts in *Redondo Beach Waterfront, LLC* could not be clearer - the application was deemed complete, the project was approved, permits had been issued, the EIR was certified, and design review had been approved, all under the ambit of a tentative map approval. The project had been

finally approved and was moving forward when Measure C passed, and the city took the position that it impacted the development project. Here, by contrast, we have a determination that the application is complete; S.Y. Valley has no statutory vested right to pursue (nothing under the statutory provisions identified above), the project has not been approved, permits have not been issued, and thus the controversy is not yet ripe.

S.Y. Valley's citation to the PSA's provisions (§ 65920, et seq.) is equally unavailing. True, as S.Y. Valley suggests, these provisions "address processes for permitting housing and other development projects." (*Save Lafayette, supra*, 85 Cal.App.5th at p. 850.) Further, section 65920, subdivision (c) provides that "any action brought in the superior court relating to this chapter may be subject to the mediation proceeding conducted pursuant to Chapter 9.3 (commencing with Section 66030)." But the "goal of the Permit Streamlining Act" is "***to relieve permit applicants from protracted and unjustified delays in processing their permit applications.***" (*Save Lafayette supra*, 85 Cal.App.5th at p. 852, citing *Riverwatch v. County of San Diego* (1999) 76 Cal.App.4th 1428, 1438, emphasis added.) This policy directs how the court should examine the import of the timing provisions under the PSA, and to what extent judicial review is appropriate under sections 65941.1 and 65943, subdivision (a).

For example, under section 65943, the public agency has 30 days after receipt of an application to determine in writing whether it is complete. If the written determination is not made within 30 days after receipt, and the application includes a statement that it is an application for a development permit, "the application shall be deemed complete for purposes of this chapter." And whether an application is "deemed complete" under this provision is the same under the HAA and PSA. (See § 65589, subd. (h)(5).) Further, once a development application is deemed complete, as here, the PSA establishes deadlines for a public agency to approve or disapprove the project, with deadlines that vary with the extent of environmental review. (See, e.g., § 65950, subd. (a).) In all of this, what is ***noticeably*** absent is any legislative authorization that S.Y. Valley, or groups similarly situated, can challenge the public agency's completeness determination during the beginning stages of the housing development project process, something anathema to the very reasons for the streamlined procedures. It may be true, as S.Y. Valley argues, that a planning manger's incorrect or arbitrary completeness determination may impede the process; but it seems a bridge too far to say that S.Y Valley, or those similarly situated to it, may seek judicial review when a final approval decision has not been made. Nothing in the PSA counters the traditional rules associated with mandamus and declaratory relief as outlined above.

Nor is the court persuaded by S.Y. Valley's attempts to draw parallels between its allegations and the allegations in *1305 Ingraham, LL C v. City of Los Angeles* (2019) 32 Cal.App.5th 1253. 1305 Ingraham, LLC, filed an administrative appeal challenging Los Angeles's project permit compliance review in connection with a development of a mixed-use commercial and affordable housing project. (*Id.* at p. 1255.) The city scheduled but never held a hearing on the appeal, although a few days after the hearing date, "the city approved the project;

it filed and posted a notice of determination with the county clerk approximately one week later," and the real-party-in-interest and respondent moved forward with the project. Nine months later 1305 Ingraham filed a writ of mandate, claiming the project failed to comply with CEQA; following a demurrer, 1305 abandoned its CEQA claim and alleged that "city's failure to hold hearing on the appeal violated a Los Angeles Municipal Code provision requiring the area planning commission to hold a hearing prior to deciding an appeal." The trial court again sustained the demurrer, this time without leave to amend, based on an argument that the claim was time barred by the 90-day statute of limitations in section 65009, subdivision (c)(1).[6]

The *1305 Ingram* appellate court affirmed. It noted initially that there was no dispute that appellant's challenges fell within the confines of section 65009, subdivision (c)(1)(E) and (F), for the challenge was made to the permit compliance review decision. That is, it was undisputed that a writ of mandate challenging the project permit compliance review was a proper subject of a writ of mandate. The issue was whether the 90-day statute of limitations applied. The appellate court concluded it did. A failure to act in a timely manner on the appeal makes the decision ***final,*** from which the 90-day statute of limitations period began to run. (*Id*. at pp. 1261-1262.) This interpretation was commensurate with the Los Angeles City Municipal Code, and provides a "backstop to provide interested parties with an actionable decision in the event of procedural lapse by the decisionmaker." Further, according to the appellate court, this interpretation "provides parties whose rights may have been violated a 'decision' from which they may seek writ or other relief." Further, the *1305 Ingram* appellate court concluded that the decision fell within the term "legislative body"- as courts have rejected the notion that the reviewing body, rather than the decision being reviewed, determines the applicability of section 65009. (*Ibid.*) S.Y Valley argues that the court should not let the same type of "procedural

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[6] This provision provides in relevant part that "no action or proceeding shall be maintained in any of the following cases by any person unless the action and service I made on the legislative body within 90 days after the legislative body's decision.: (A)"To attack, review, set aside, void, or annul the decision of a legislative body to adopt or amend a general or specific plan. This paragraph does not apply where an action is brought based upon the complete absence of a general plan or a mandatory element thereof, but does apply to an action attacking a general plan or mandatory element thereof on the basis that it is inadequate; (B) To attack, review, set aside, void, or annul the decision of a legislative body to adopt or amend a zoning ordinance.; (C) To determine the reasonableness, legality, or validity of any decision to adopt or amend any regulation attached to a specific plan; (D) To attack, review, set aside, void, or annul the decision of a legislative body to adopt, amend, or modify a development agreement. An action or proceeding to attack, review, set aside, void, or annul the decisions of a legislative body to adopt, amend, or modify a development agreement shall only extend to the specific portion of the development agreement that is the subject of the adoption, amendment, or modification. This paragraph applies to development agreements, amendments, and modifications adopted on or after January 1, 1996; (E) To attack, review, set aside, void, or annul any decision on the matters listed in Sections 65901 and 65903, or to determine the reasonableness, legality, or validity of any condition attached to a variance, conditional use permit, or any other permit; (F) Concerning any of the proceedings, acts, or determinations taken, done, or made prior to any of the decisions listed in subparagraphs (A), (B), (C), (D), and (E)."

Section 65901, subdivision (a) regulates the hearings for authorizations of conductional use permits and section 65903 regulates the appeal such decision. (*Bahu v. Ament* (C.D. Cal., Oct. 28, 2024, No. 8:24-CV-00910-JVS-RAO) 2024 WL 5274499, at *7 [provision applies to challenge decision concerning CUP application approval].)

lapse" occur here, treating the completeness determination as final, and applying the 90-day statute of limitations, which has been satisfied.

Again, nothing in *1305 Ingram* helps S.Y. Valley. First, unlike the clams raised in *1305 Ingram*, there is great uncertainty here that that the dispute falls within the purview of section 65009, subdivision (c)(1), thus triggering the 90-day statute of limitations. None of the claims raised by S.Y. Valley fall within the provisions of section 65009, subdivision (c)(1) (A) to (F) – that is, S.Y. Valley's claims do not involve an amendment to a general or specific plan, an amendment to a zoning ordinance, any decision to adopt or amend a regulation attached to a specific plan, a challenge to a development agreement, any matters listed in section 65901 or 65903 [use or appeals of conditional use permits], or any of the proceedings, acts or determinations associated with the items listed above. Nothing mentioned in the statutory scheme allows a challenge to the public agency's determination that the application is complete. Further, *1305 Ingram* is factually distinguishable. The developer in *1305 Ingram* initiated its petition for writ of mandate after the public agency had approved the building project (i.e., after a notice of determination was filed). (*Id*. at p. 1257). Further, after a first amended complaint, the developer challenged via traditional writ of mandate and declaratory relief not whether the developer's application was complete, but whether the public agency had provided an adequate administrative appeal process. Nothing in this decision supports S.Y. Valley's claim that it should be allowed to proceed with judicial review absent a final approval decision or implication of some other vested statutory right.

S.Y. Valley in the end seems to rest its contention that judicial review is appropriate per traditional mandamus and declaratory relief because 1) a developer can challenge an incomplete determination; and 2) there was no mechanism for intermediate review of whether the decision is complete (meaning the decision made by the planning manager should be imbued with finality). Indeed, that seems to be the reason why S.Y. Valley offers *1305 Ingram* as a guide. The court is simply not persuaded that the S.Y. Valley is similarly situated to a developer when the public agency decides the application is incomplete. The Legislature has emphasized speed, not delay, and thus the two are not similarly situated. Further, it is settled that a "fair procedure" requirement does not always require an interim review procedure, at least (as relevant here) as to those non-developers challenging the interlocutory completeness determination (a determination that allows the process to move forward). Permitting court review before a ***final*** administrative decision about the project would needlessly fracture the process, giving S.Y. Valley and those similarly situated multiple opportunities for judicial review (as one can foresee an administrative writ being file after a hearing is held and final approval is given). Allowing this multiplicity would be a disservice to the exhaustion doctrine itself. (See, e.g., *Billengier v. Doctors medical Center* (1990) 222 Cal.App.3d 1115, 1129-1130.) If a party could obviate the exhaustion requirement simply by claiming the public agency's interim appeal was improper, the exhaustion doctrine would essentially be emasculated. Accordingly, even if we assume arguendo that Solvang improperly denied S.Y. Valley's appeal, this alone does furnish a right for direct resort

to the courts. (*Ibid*.) It should be remembered that the exhaustion requirement exists for the promotion of judicial efficiency by unearthing the relevant evidence and providing a record which the court may review; factual disputes should be resolved. This purpose is served by requiring S.Y. Valley to wait and exhaust ***all*** administrative decisions in association with any final approval decision; any challenge to the completeness determination can be made in conjunction with ***that*** decision. Balkanization of the process does not further Legislature's desire for a speedy application processing.

The court concludes with observations made by our high court in *Abelleira v. District Court of Appeal* (1941) 17 Cal.2d 280, 291: "Until that administrative procedure has been invoked and completed, there is nothing that the District Court or Appeal or any other court may review; it cannot interfere in the intermediate stages of the proceeding." Those words seem prescient in the present context.

The court will therefore sustain the demurrer without leave to amend, as there is no reasonable possibility that S.Y. Valley can amend. S.Y. Valley cannot seek judicial review at this juncture because the claims advanced are unripe, no final decision has been made, and exhaustion has not occurred. This conclusion obviates any need to address other claims raised by the defendant Solvang in its demurrer. Nothing in this order precludes S.Y. Valley from filing a future petition (either traditional or administrative mandate, or declaratory relief), once all the necessary predicates have occurred.

B) Demurrer by *Real Parties in Interests*

As the discussion above has obvious import here, the court need not address separately any claims raised, including the request for judicial notice and any opposition thereto, *except* for one procedural issue raised by S.Y. Valley – the real-parties-in interests failed to comply with the mandatory e-service requirement under Santa Barbara County Superior Court Local Rule 1012(d)(1). Our local rule provides that "e-filed documents shall be served electronically by and on" "each party who has appeared and is represented by counsel . . . ." The provision applies here, although it is silent about any remedy should a party not follow the rule. There is no indication the rule is jurisdictional. While counsel should have complied with the mandatory e-filing service rule (counsel mailed the demurrer and did not serve it electronically as required),the demurrer is nevertheless timely, and the violation offers no reason to overrule the demurrer unless S.Y. Valley can show prejudice (i.e., S.Y. Valley must show the failure materially impacted its ability to respond or defend), which has not been done. This is no basis to overrule the demurrer. Of course, counsel is reminded to comply with this rule in the future, and sanctions may be contemplated for failure to do so. For the reasons articulated above, the court sustains the demurrer filed by real-parties-in interest without leave to amend. Nothing here

precludes S.Y. Valley from challenging any final decision concerning the housing development project, as note above.

Summary:

- As to Solvang's demurrer, the court grants all requests for judicial notice except Solvang's request, contained in Exhibit A, as to Solvang Municipal Code, Title 11, Chapter 17, § 11-17-3, Appeals. The court grants S.Y. Valley's request for judicial notice in full.
- The court rejects S.Y. Valley's procedural challenges, as they offer no basis to overrule Solvang's demurrer.
- The court sustains Solvang's demurrer without leave to amend, as S.Y Valley's claims are premature, and in violation of the rules of exhaustion, ripeness, and finality. Neither mandamus nor declaratory relief is authorized to challenge the application's completeness determination at this intermediate stage. Those challenges should be advanced alone with any final approval. This determination obviates the need to rule on Solvang's remaining arguments. Nothing in this order should be seen as precluding S.Y. Valley from raising any future challenge if there is a final approval decision.
- The court finds this analysis to be determinative with regard to the demurrer filed by real-parties-in-interest, and thus it need not address any issues raised in the separate demurrer, other than the claim raised by S.Y. Valley concerning failure to comply with mandatory e-service under this court's local rule. As the violation is not jurisdictional, and no prejudice has been shown, the violation acts as no basis to overrule the demurrer. The court reminds counsel that the mandatory e-service rule should be followed. The court (for reasons stated above in association with Solvang's demurrer) sustains this demurrer without leave to amend. As also noted above, nothing here should be seen as precluding S.Y. Valley's future challenge following a final approval.