**PROPOSED TENTATIVE**

The court will address Case Nos. 25CV02774 and Case No. 25CV01654 together in this order. The court has analyzed the merits of the demurrer in *Californians for Homeowners, Inc. v. County of Santa Barbara, et al.*, Case No. 25CV03039, also on calendar today, under separate cover. All parties are directed to review the order written in Case No. 25CV03039, as it implicates the court's determinations here.

*A) General Background (Including the Nature of the Lawsuits At Issue)*

As background, the three lawsuits before the court (Case Nos. 25CV02774, 26CV01654, and 25CV03039) involve essentially (although not entirely) the same parties, the same housing development project, and center around Santa Barbara County Board of Supervisor's April 8, 2025 decision to approve Richard Ranch LLC's preliminary application for a 750-unit housing development project, deeming the application complete as of April 8, 2025, but not earlier, and the consequences that stem from that decision.

For our purposes here, on May 2, 2025, in *Richards Ranch, LLC v. County of Santa Barbara County, et al.,* Case No. CV2502774, Richards Ranch, LLC (petitioner or Richards Ranch) filed a "Verified Petition for Writ of Mandate, Prohibition or Other Extraordinary Relief[,]" against respondents County of Santa Barbara and the Santa Barbara County Board of Supervisors (collectively, respondent or County), advancing seven (7) causes of action either in administrative or traditional mandamus, based on violations of the Housing Accountability Act (HAA), the Permit Streaming ACT (PSA), and the Housing Crisis Act (HCA), all associated with its preliminary application for the housing development project alluded to above, as follows: 1) violations of Government Code[1] section 65920, et seq., and section 65589.5, claiming the County erred in finding its preliminary application was incomplete because the County's determination was made more than 30 days later, in violation of the statutory scheme; 2) violations of section 65589.5, challenging the Board's determination that the application was complete on April 8, 2025 on appeal because "[n]othing in the PSA specifies that Respondent may select its preferred deemed complete [date] under section 65943(a) as part of the appeal process"; 3) violations of sections 65589.5 and 65905.5, along with a violation of Public Resource Code section 21082, as the County seeks in "bad faith" to thwart key protections with justification for the housing development project when it approved the application on April 8, 2025, including failure to provide written documentation as to why the housing project is not in conformity with applicable plans; ignoring the "five hearings rule" in section 65905.5(b)(2); and ignoring the 30-day cut-off date after accepting an application as complete for purposes of preparing an Environmental Impact Report (EIR); 4) violations of section 65920 and 65589.5, because County issued the third incompleteness determination "based on information requested in violation of the PSA and incomplete items contradicted by evidence in the Second Resubmittal, in an intentional effort to harass and obstruct Petitioner, unnecessarily dela6y the Project, and needless increase the costs"; 5) violations of section 65590.5, as the County issued email determinations that the housing development project lost its vested rights (it's Builder's

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

Remedy rights), and according to petitioner, the email determinations have not been rescinded, meaning the application has been deemed "disapproved" without compliance of the appropriate statute provisions; 6) violations of section 65589.5, because County failed to make the required written findings under the HAA, all in bad faith; 6) violations of section 65589.5, because County "failed to make the required findings under the HAA, denying the Project and refusing to affirm that the Project retained [its vesting rights] and protections under the HAA (including the Builder's Remedy" in bad faith"; and 7) declaratory relief, asking the court to determine all issues listed in the preceding causes of action as an ongoing controversy. County has not yet answered.

Despite the pendency of the above-mentioned writ of mandate/complaint, petitioner Richards Ranch, on March 4, 2026, filed a ***second*** lawsuit -- another "Verified Petition for Writ of Mandate" – also against respondent County, requiring priority and expedited review per Code of Civil Procedure section 1094.9, which was recently enacted and effective January 1, 2026. (Stas. 2025, c. 527 (S.B. 808).) (*Richards Ranch, LLC v. County of Santa Barbara, et al.,* Case No. 26CV01654.)

This new statutory provision was intended to put challenges to disapprovals of housing development projects by a local agency on a judicial fast track. Subdivision (a) of this provision provides as follows: "(a) Notwithstanding any other provision of this chapter, an action or proceeding to review the denial of a permit or other entitlement for a housing development project or residential dwelling unit shall be conducted pursuant to subdivision (d), if the petitioner timely provides the notice described in paragraph (4) o subdivision (d)." According to subdivision (c), actions "brought pursuant to this section, including when on appeal from the decision of a lower court, shall be given preference over all other civil actions before the court when setting the matter for hearing or trial and holding the hearing or trial." Pursuant to subdivision (d)(2), an "applicant . . . may bring any action under this section. The action shall be in the form of a petition for writ of mandate pursuant to Section 1085 or 1094.5,or both, as appropriate." Per subdivision (d)(2), upon request from the applicant, "the local agency shall prepare the record of its proceedings concluding with the local agency's proceedings." Other provisions discuss preparation of the record, it contents, meet and confer obligations, the costs of preparing the administrative record, the record of the proceeding before the local agency, and what should be part of the record before the court. (§ (d)(2)(A) to (C), up to (3)(A) to (D).) According to subdivision (d)((4), a petitioner "who elects to bring an action pursuant to this section shall file and serve the petition on the respondent no later than 90 days from the later of (1) the effective date of a decision of the local agency imposing conditions on, disapproving, or any other final action on housing development; (2) the effective date of the denial of a permit for a housing development project; or (3) any other action by which respondent disapproves the housing development project. . . ." A hearing must be set no later than 45 calendar days from the date the petition is filed. Further, following conclusion of the hearing, the court shall render its decision in an expeditious manner, and in no event shall the decision be rendered "later than 30 calendar days after the matter is submitted or 75 calendar days after the date the petition is filed pursuant to paragraph (4), whichever is earlier." Subdivision (e) provides as follows: "If the presiding judge of the court in which the action is filed determines that, as a result of either the

press of other court business or other factors, the court will be unable to meet any of the deadlines provided within this section, the presiding judge may request the temporary assignment of a judicial officer to hear the petition and render a decision within the time limits contained hearing. . . . Given the short time period involved, the request shall be entitled to priority."[2]

There is a single cause of action in the "Verified Petition for Writ of Mandate" in Case No. 26CV01654, with various subparts. The lynchpin of the petition, raised via administrative mandamus per Code of Civil Procedure section 1094.9, involves a claim that County failed to acknowledge the fact it missed the deadline for determining whether petitioner's preliminary application was complete, as it had only 30 days after petitioner's submission to make that determination; the application was submitted on January 20, 2025, a holiday, and if that day is determinative, the incompleteness determination had to be made by February 19, 2025; it was not, as it was made on February 20, 2025, one day late. Under the statute, as it was late, the preliminary application is therefore deemed complete. This issue was not raised in Case No. 25CV03039, which focused exclusively on whether the Board was required as a matter of law to find a completeness date retroactively and not as of April 8, 2025, the date of appeal hearing.[3] Central to petitioner's writ petition is a letter, dated August 25, 2025, and written by the California Department of Housing and Community Development Division of Housing Policy Development (HDC), addressed to Lisa Plowman, Director of Planning & Development Department of Santa Barbara County, explaining why the County's determination about timeliness is wrong.[4] Petitioner details the consequences of County's failure to acknowledge the

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[2] The only authority that appears to discuss this new statutory provision as of this writing is contained in the California Judges Benchbook, Civil Proceedings Before Trial, Case Management,(2026), Section 2.6, as follows: "Writ challenging permit denials. An action challenging denial of a permit or other entitlement for a housing development project or residential dwelling unit must be given preference over all other civil actions. CCP § 1094.9(c). The judge must render the decision no later than 30 days after the matter is submitted or 75 days after the petition is filed, whichever is earlier. CCP § 1094.9(d)(6). If the court cannot meet any deadlines, the presiding judge may request that a temporary judge hear and decide the action pursuant to Govt C § 68543.8 (retired judge) and Cal Rules of Ct 2.812 (attorney)."

[3] The court has examined the March 31, 2025 appeal letter sent by petitioner to the Board, framing the issues to be addressed on the appeal before the Board. This was one of the four issues raised in the appeal (Issue No. 1, as outlined in the March 31, 2025 letter). Unfortunately, the Board's April 8, 2025 minutes, do not expressly indicate the Board rejected petitioner's argument, although a very strong argument can be made that by finding the application was complete by April 8, 2025, it implied rejected petitioner's claim that the County incompleteness determination, sent on February 20, 2025, was untimely (under its reading of the statutory scheme).

[4] More specifically, in the August 25, 2025 letter from the HDC, the author acknowledges the disagreement "between the County and the applicant" for determining "when the 30-day period began for the second resubmittal" submitted on Martin Luther King Jr. holiday, January 20, 2025. HDC "understands" the County kept its "web-based application submittal system" open and received the application on January 20, 2025. "The applicant operated under the assumption that the date of submittal was recorded on that date and did not receive notification to the contrary from the County during the assumed 30-day period," as the "County's website contains an applicant-facing interface that stated the date of application receipt as of January 20, 2025." According to HDC, after examining Code of Civil Procedure section 12, Civil Code section 10, section 6800, and California Rules of Court, rule 1.10, it is the HDC's view that application was "received" on January 20, 2025; the 30-day clock began to run on January 21, 2025, not January 22, 2025, as the County maintains (they argue they did not receive the application until beginning of business day on January 21, 2025, when the officer was opened), and "[a]s a result, the 30-day period ended on February 19, but the County issued an incompleteness determination on February 20, 2025, a day late."

timeliness of the January 20, 2025 preliminary application (i.e., by finding the April 8, 2025 appeal hearing date as the date the application was complete), as follows: 1) on February 27, 2025, the County found that petitioner has forfeited its vested rights (including the Builder's Remedy); 2) on May 8, 2025, "the County issued a belated Notice of Intent to Prepare and EIR, " even though the deadline to send the letter was March 21, 2025 – 30 days from February 19, 2025; and 3) on June 6, 2025, the planning staff "sent a letter that purports to be a written consistency determination under Government Code section 65589.5 [subdivision (j)(2((A)(ii)[5] (Consistency Determination), identifying the alleged inconsistencies between the Project and County polices." As observed by petitioner: "However, the deadline" for that determination expired in April 2025 (60 days after the application was deemed complete as a matter of law), from the February 19, 2025 determination. "The County continues to refuse to acknowledge this fact and continues to assert that its June 2025 Consistency Determination is valid." Petitioner acknowledges the County reversed its determination concerning any and all vesting issues, and finding petitioner has not lost its vested rights under section 65941.1. According to petitioner in the writ petition, all of this was described in a December 17, 2025, letter from Lisa Plowman to petitioner, in which County 1) disagreed that the preliminary application should have been deemed complete on February 19, 2025, indicating that it received the application on January 21, 2025, which is the day the office was open, meaning the February 20, 2025 determination was timely; and 2) rendering all other determinations timely as a result. Petitioner acknowledges that County reversed its decision concerning any lost vesting (this is addressed in demurrer in Case No. 25CV03039). Petitioner contends that the triggering date for the expedited petition is the December 17, 2025, letter from Director Plowman, meaning petitioner had 90 days to file the petitioner, a date that was met by filing the petition on March 4, 2026.

***B) Matters Pending Before the Court***

There are a number of pending motions pending before the court in Case No. 25CV02774. Notably, the County has generally demurred to all seven (7) causes of action, including a request for judicial notice. The County has also filed a motion to strike portions of the petition/complaint, asking the court to strike all references to traditional mandate pursuant to Code of Civil Procedure section 1085; allegations regarding petitioner's unrelated application for annexation into the City of Santa Maria and all associated determinations in that regard; allegations regarding the County's separate, unrelated "Housing Element Update and Housing Element Rezone Proceedings"; and other additional "allegations regarding unrelated proceedings." County has also filed a protective order, asking the court to bar depositions of the following: Laura Capps, Bob Nelson, Joan Harmann, Roy Lee, Steven Lavagnino, Larua Bradley Roy Reed, Vincent Martinez, John Parke, Michael Cooney, Wade Horton, Aaron Hanke, Cory Bantilan, Lisa Plowman, Travis Seawards, Gwendolyn Beyeler; and Alia Vosburg. Further,

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[5] This provision provides that "if the local agency considers a proposed housing development project to be inconsistent, not in compliance, or not in conformity with an applicable plan, program, policy, ordinance, standard requirement or other similar provisions as specified in this subdivision, it shall provide the applicant with written documentation identifying the provision or provisions, and an explanation of the reason or reasons it considers the housing development to be inconsistent, not in compliance, or not in conformity, as follows: . . . (ii) Within 60 days of the date the application for the housing project is determined to be complete, if the housing development project contains more than 150 units."

County asks the court to bar written discovery, as the review is pursuant to Code of Civil Procedure section 1094.5, a closed universe. Opposition and reply have been filed as to all motions. There is also a Case Management Hearing scheduled for May 5, 2025. Nothing new has been filed other than the order on a related case determined, filed on April 15, 2026.

In Case No. 26CV01654, the parties clearly intend to move straight to the merits on an expedited basis. Petitioner filed its opening brief on March 20, 2025. The administrative record was lodged on April 1, 2025, and County answered and filed its opposition brief on the same day. Petitioner filed its reply brief on April 28, 2026 (along with exhibits in support of the pleading), all on the merits. There is a pending motion to strike the administrative record, filed by the County.

The court at the last ex parte hearing shortening time, addressing the motion to strike the administrative record, discussed its concerns about how these cases were to be litigated; the parties indicated they would meet and confer. There is no indication that has occurred.

***D) Court's Observations***

As an initial matter, the court orders petitioner to file a notice of related case between Case Nos. 26CV01654 and Case No.25CV03039.

As to the merits of the motions and the petition, the court at this time is not going to throw itself headlong into this litigation labyrinth, at least without first taking time to assess how these cases can be litigated (and whether they in fact can be litigated) as presented. The court is willing to divorce the merits of Case No. 25CV03039 from the other two cases (at least for pretrial purposes), and thus decide the demurrer on the merits in the former case, as the issues raised therein can be segregated and discretely determined. This is not true as to Case Nos. 25CV02774 and Case No. 26CV01654, and notices of related case do not come close to addressing the court's legitimate concerns. The white element in the room, if you will, involves the clear overlap between the two cases; in fact, it appears ***all*** of the issues raised in Case No. 26CV01654 are subsumed (and this advanced) in Case No. 25CV02774, which was filed on May 2, 2025. Strangely, no party addresses the potential internecine relationship between the cases, thereby failing to address a need for consolidation, the real specter of conflicting judgments, and/or potential waste of judicial resources. The court is aware that Code of Civil Procedure section 1094.9 requires resolution of the petition no later than 75 days after the petition has been filed (the petition as it currently sits was filed on March 4, 2026, meaning resolution must occur no later than May 18, 2026) But the unique circumstances of these cases, given their concurrent litigation trajectories, spurs more questions than answers, requiring the court to proceed cautiously albeit purposefully, after the parties have approached and answered the following concerns:

- What is the factual and legal relationship between the causes of action in Case No. 25CV02774 and the single cause action (with subparts) in Case No. 26CV01654? To the court it seems all causes of action in the latter are directly raised or at least directly implicated by the allegations in the former. If this is true, how can they be litigated in

separate lawsuits, with separate prosecution come trajectories? Should the cases be consolidated? The parties should come prepared to discuss these issues at the hearing.

- What impact does the court's determination in Case No. 25CV03039 have on any cause of action (or part of any cause of action ) in either case here? Are at least some of the allegations now barred by principles of res judicata (i.e. claim or issue preclusion)? Should petitioner be directed to file an amended pleading in Case No.25CV02774, accounting for the court's ruling? Again, the parties should come prepared to discuss these issues at the hearing.
- The court is particularly concerned about the efficacy and viability of the expedited procedures pursuant to Code of Civil Procedure section 1094.9, as relied upon in Case No. 26CV01654, for petitioner confronts two problems apparent from the face of the petition.
    - The first problem involves the general rule under California law that absent a clear, contrary indication of legislative intent, courts interpret statutes to apply prospectively only. (*Winston v. County of Los Angeles* (2024) 107 Cal.App.5th 402, 408.) There is no clear indication the Legislature intended Code of Civil Procedure section 1094.9 to apply retroactively. It seems evident that the Board of Supervisors either expressly or at least impliedly rejected petitioner's claim that the County's February 20, 2025 determination (finding petitioner's preliminary application untimely) at the April 8, 2025, at least based on the information it then had. The court is therefore willing to accept petitioner's argument that the 90-day rule contained in Code of Civil Procedure section 1094.9 can be satisfied under the continuous accrual doctrine. (See generally *Gilkyson v. Disney Enterprises, Inc.* (2016) 244 Cal. App.4th 611, 614 [under the continuous accrual doctrine, each breach of a recurring obligation is independently actionable].) Petitioner can overcome this first hurdle.
    - The second issue is far more troublesome. Petitioner, in reliance on the HCD's August 25, 2025 letter, issued to the County, indicates the HCD disagreed with the County that its February 20, 2025, incompleteness determination was timely. (See fn. 4, *ante.*) Petitioner observes County "failed to substantively respond" to the August 25, 2025 letter in any meaningful way. On December 17, 2025, in a letter from Lisa Plowman to petitioner, the Planning and Development Department indicated it had not changed its view and (irrespective of the HCD's letter) continued to find the determination that the preliminary application was incomplete it made on February 20, 2025, was timely made.
    - As noted, Code of Civil Procedure section 1094.9 requires an administrative mandamus petition to be filed within 90 days from the later of the effective date of decision of the local agency imposing conditions on, disapproving, or any other "***final*** action" on housing development project. Use of the word "final" in this scheme clearly suggests the Legislature incorporated exhaustion principles into the scheme, and the Board of Supervisors is the entity charged with making a final administrative decision. It is a long-standing rule in California that

finality is regarded as an aspect of the exhaustion mosaic. (*Hongsathavij v, Queen of Angels Etc. Medical Center* (1998) 62 Cal.App.4th 1123, 1135; see also *Call v. Feher* (1979) 93 Cal.App.3d 434, 440 [a mere rejection by a member of the staff with a presentation that the legislative body would also reject the application is insufficient to excuse exhaustion of the administrative procedures].) It appears to the court that the August 25, 2025, letter from the HCD, which petitioner relies on critically in its petition to show the County erred (as the letter was authored after the Board's April 8, 2025 determination), coupled with a host of additional facts that occurred after the April 8, 2025 determination as reflected in the petition, involves new evidence or fresh arguments or changed circumstances that required a new appeal to the Board of Supervisors (in compliance with the jurisdictional exhaustion requirement).[6] (See, e.g., *Plantier v. Ramona Municipal Water Dist.* (2019) 7 Cal.5th 372, 383 [unless circumstances warrant judicial involvement, allowing a court to intervene before an agency has "fully resolved the matter" would constitute an interference with the jurisdiction of another tribunal].) Much occurred following the April 8, 2025 determination, and there is no indication that the appeal under the circumstances would have been duplicative. (*Coachella Valley Mosquito & Vector Control Dist. v. California Public Employment Relations Bd.* (2005) 35 Cal.4th 1072, 1080 [an administrative remedy is exhausted only upon termination of all available, nonduplicative administrative review procedures].; see *Jonathan Neil & Assoc., Inc. v. Jones* (2004) 33 Cal.4th 917, 933 [exhaustion requires agency decision of " 'entire controversy' "]; *People v. Beaumont Investment, Ltd.* (2003) 111 Cal.App.4th 102 [administrative process must " ' "run its course" ' "]; *Bleeck v. State Board of Optometry* (1971) 18 Cal.App.3d 415, 432 [exhaustion requires "a full presentation to the administrative agency upon <u>*all*</u> issues of the case and at all prescribed stages of the administrative proceedings"].)

- Relevant to this analysis is our high court's decision, overruling *Alexander v. State Personnel Bd.* (1943) 22 Cal.2d 198, and concluding that "subject to limitations imposed by statute, the right to petition for judicial review of a final decision of an administrative agency is not necessarily affected by the party's failure to file a request for reconsideration or rehearing before that agency."

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[6] Petitioner clearly went to Lisa Plowman and the Planning and Development Committee in the hope of altering the April 8, 2025 date of completion in light of the August 25, 2025 letter, and the response in the December 17, 2025, letter was a rejection of that effort. There is no explanation about how Lisa Plowman or the Planning and Development Committee could have altered the Board of Supervisor's April 8, 2025, date of completion even if she or it wanted to, at least without going back to the Board of Supervisors and seeking its acquiescence/approval. And if going back to Board of Supervisors was required for that purpose, it must also be required to satisfy the jurisdictional exhaustion requirement in the present situation as a condition to filing an administrative writ of mandate.

(*Sierra Club v. San Joaquin Local Agency Formation Com.* (1999) 21 Cal.4th 489, 510.) *Sierra Club* made the following observations that have direct impact on the immediate question here: This "***conclusion does not mean the failure to request reconsideration, or rehearing may never serve as a bar to judicial review***. ***Such a petition remains necessary, for example, to introduce evidence or legal arguments before the administrative body that were not brought to its attention as part of the original decisionmaking process***." *(Id*. at p. 510.) "***Our reasoning here is not addressed to new evidence, changed circumstances, fresh legal arguments, filings by newcomers to the proceedings and the like***. . . . " (*Ibid.*)

- The situation outlined in the highlighted language seems dispositive of the issue here, in light of the HCD's August 25, 2025, letter, coupled with the post-April 8, 2025 determinations made by the County, all involving new evidence and fresh legal arguments that could ***not*** have been made before the Board's April 8, 2025 decision.[7] Petitioner, under these circumstances, in order to exhaust, was required to request a rehearing before the Board of Supervisors (based on the December 17, 2025 rejection letter, which petitioner claims is the triggering event for the 90-day period under Code of Civil Procedure section 1094.9). Indeed, that letter constituted a Director determination concerning completeness that could be appealed under the Santa Barbara County Land Use & Development Code (LUCD), section 35.102.040(A)(3)(b) [to the Commission] and LUCD section 35.102.50 [any final decision to deny an application for a development plan by Commission can be appealed to the Board of Supervisors].

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[7] In the March 31, 2025 appeal package, petitioner submitted the following documents to the Board of Supervisors as part of the appeal: 1) June 26, 2024, August 22, 2024, and December 2, 2024, letters from the HCD to Michael Forbes, Director of Community Development, City of Beverly Hills, describing the HCA's interpretation of when, inter alia, a preliminary application is deemed complete, including vested rights; 2) an August 24, 2022 letter from the HCA to Kevin McSweeney, Planning and Community Development Director of the City of Filmore, providing assistance concerning interpretations of the PSA and HAA as to when a preliminary application is deemed complete, and City of Fillmore's reply letter on June 9, 2022; 3) a July 23, 2024 letter from the HCA to Shannon Goei, Community Development Director for the City of Gilmore, providing technical assistance in interpreting the PSA and HAA regarding a preliminary application completeness determination; 4) August 30, 2024 and February 12, 2025 letters from the HCA to Jennifer Armer and Sean Mullin, Planning Mangers, respectively, for the town of Los Gatos, also regarding technical assistance in interpretating the deadlines under PSA and HAA regarding a completeness determination; 5) a March 17, 2025 stipulation between Californians for Homeownership and the City of Beverly Hills, addressing the nature of the 90-day expiration period for a completeness determination; and 6) a 32-page trial court order from Judge James Chalfant, dated July 23, 2024, in *Janey Jha v. City of Los Angeles*, et al, Los Angeles County Superior Court Case No. 23STCP03499, involving a writ of mandate concerning the City's compliance with the PSA, the HAA, and the Density Bonus Law. Most critically, for our purposes, not one of these documents addresses the legal issue addressed in the August 25, 2025 letter issued by the HCA, which rests at the heart of the petition in Case No. 26CV01654 – the point at which the January 20, 2025 preliminary application was deemed submitted, and whether the County's incompleteness determination was itself untimely as a result. The Board of Supervisors did not have the benefit of the HCA's interpretation of the legislative scheme on these matters regard at the time of its April 8, 2025 determination, and in the court's view, it constitutes a "fresh argument' or new evidence per *Sierra Camp* that required the Board of Supervisor's reconsideration in order to satisfy the exhaustion of administrative remedies doctrine.

It seems evident from the face of the pleading (and from all judicially noticed documents) that petitioner did not appeal that decision. This is not a situation in which duplication would have occurred, or that the same legal arguments were going to be advanced in some rote, mechanistic fashion (in other words, the reconsideration would not have been pro forma), and this court has no way of guessing what the Board of Supervisors would have determined. Indeed, this is the very reason why the exhaustion requirement exists in the first instance.

- Put another way, the first lawsuit (Case No. 25CV02774) involves judicial review following the Board of Supervisor's final April 8, 2025 determination. The petition in Case No. 26CV01654, by contrast, is predicated on post-April 8, 2025 events, most notably involving an August 25, 2025 letter from HDC, as well as numerous determinations that stem followed from the April 8, 2025 date, culminating in the December 17, 2025 letter by the Director of the Planning and Development Department (ultimately rejecting petitioner's efforts). In order to advance the claims at issue in this forum based on post-April 8, 2025 events, when the evidence/arguments could not have been presented to the Board of Supervisors in the first instance, petitioner was required to exhaust his administrative remedies by seeking reconsideration from the Board of Supervisors, under *Sierra Club* and progeny. From the face of the petitioner as well as all judicially noticed documents, petitioner did not make that application, and thus failed to exhaust his administrative remedies, a jurisdictional perquisite to judicial intervention to secure relief pursuant Code of Civil Procedure section 1084.9, which must be pleaded.
- Accordingly, in Case No. 26CV01654, rather than addressing the merits of the petition,( the court will entertain a nonstatutory motion for judgment on the pleadings (having the effect of a demurrer). (*Tung v. Chicago Title Co*. (2021) 63 Cal.App.5th 734, 757 [acknowledging authority that recognizes the existence of the court's inherent authority to utilize a nonstatutory motion for judgment on the pleadings despite Code of Civil Procedure, section 438]; *Saltarelli & Steponovich v. Douglas* (1995) 40 Cal.App.4th 1, 5 [nonstatutory motion for judgment on the pleadings may be utilized and granted when the complaint fails to allege cause of action]; *Sofias v. Bank of America* (1985) 172 Cal.App.3d 583, 586 a motion for judgment on the pleadings is a nonstatutory but well established procedure with the purpose and effect of a general demurrer].) Its purpose is to address petitioner's failure to plead exhaustion of administrative remedies, as petitioner apparently did not seek reconsideration of the Board of Supervisor's April 8, 2025 completeness determination in light of new evidence/fresh arguments, which are central to the petition, as required by *Sierra Club* and progeny. A briefing schedule will have to be established, even though

the court is aware that resolution must occur within 75 days of filing the petition, or by May 18, 2025.

- If the parties stipulate to a continuance beyond the 75 days as contemplated in the statute (and they are strongly urged to do so[8]), the court will order County to file a brief, no more than 10 pages in length, addressing the alleged failure to exhaust as detailed above, to be filed and served by 5:00 p.m., on May 19, 2025. Petitioner will then have two weeks to respond (no more than 10 pages), meaning the brief must be filed by 5:00 P.M., on June 2, 2026. No reply is authorized. The hearing will be scheduled for June 16, 2026.

- The court will continue the demurrer, motion to strike, and motion for a protective order in Case No. 25CV02774 to June 23, 2026. Petitioner in the meantime is expected to determine expeditiously what impact the court's ruling in Case No. 25CV03039 has on any or all causes of action in Case No. 25CV02774; if an amended pleading is required to be filed in that matter, which is authorized by the court, so be it, which may moot the County's present demurrer and motion to strike now on calendar for June 23, 2026. Nothing precludes County from filing a new demurrer and motion to strike under traditional law and motion deadlines should an amended pleading be filed in Case No.25CV02774. The parties, despite the pending nonstatutory motion for judgment on the pleadings, should give serious consideration as to how these two matters will be litigated moving forward.
- The parties are directed to appear at the hearing either in person or by Zoom in order to address the court's concerns outlined in this order.

[8] If the petitioner does not stipulate to this continuance, the court will have little choice but to grant the nonstatutory motion for judgment on the pleadings with leave to amend, triggering a new 75-day period (commencing from the date of the filing of the new amended pleading). It seems far more efficient if the parties simply agree to the proposed stipulation as proposed by the court.