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11 Courtyards, LLC, and Jonathan Benabou, as Trustee  
on behalf of The Mani Benabou Family Trust

12 **UNITED STATES DISTRICT COURT**  
13 **CENTRAL DISTRICT OF CALIFORNIA**  
14

15 NEWCASTLE COURTYARDS,  
16 LLC, a California limited liability  
company; JONATHAN  
17 BENABOU, as Trustee on behalf  
of THE MANI BENABOU  
18 FAMILY TRUST; and ROES 1  
19 through 500,

20 Plaintiffs and Petitioners,

21 v.  
22

23 CITY OF LOS ANGELES;  
24 COUNTY OF LOS ANGELES;  
25 COUNTY OF LOS ANGELES  
26 RECORDER’S OFFICE; DOES 1  
through 500,

27 And

28 [Caption continued on next page]

**Case No.: 2:23-cv-00104-JAK-AS**

**FIRST AMENDED VERIFIED  
PETITION AND COMPLAINT FOR:**

1. **Violation of Equal Protection –  
Gross Sales As Proxy for Ability to  
Pay Is Arbitrary and Irrational;**
2. **Violation of Equal Protection –  
Requirements of Uniformity and  
Apportionment;**
3. **Violation of Article 1, Section 10,  
U.S. Constitution – ULA Is  
Unconstitutional Retroactive  
Legislation;**
4. **Violation of Article XIII A, Section  
4, of California Constitution;**
5. **Violation of Gov. Code Section**

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ALL PERSONS INTERESTED IN THE MATTER of the ULA and all proceedings related thereto, Respondents and Defendants.

- 53725;
- 6. **Governmental Taking Without Compensation – Monetary Exaction No Essential Nexus or Rough Proportionality;**
- 7. **Governmental Taking Without Compensation – Unconstitutional Special Assessment;**
- 8. **Governmental Taking Without Compensation – ULA Is Confiscation of Property, Not Taxation;**
- 9. **Violation of Freedom of Speech Through Imposition of Unreasonable Burden to Exercise Constitutional Right;**
- 10. **Violation of Substantive Due Process;**
- 11. **Unlawful Delegation of Authority;**
- 12. **Unconstitutional Vagueness.**
- 13. **Violation of the Commerce Clause**
- 14. **Damages Under 42 U.S.C. Section 1983;**
- 15. **Writ of Mandate;**
- 16. **Declaratory Relief;**
- 17. **Determination of Invalidity (*Code of Civil Procedure* §§ 860 *et seq.*);**

**DEMAND FOR JURY TRIAL**

1 **I. JURISDICTION AND VENUE**

2 1. This is an action for injunctive, declaratory relief and damages pursuant to  
3 42 U.S.C. § 1983 based upon the continuing violations of Plaintiffs’ rights under the First,  
4 Fifth and Fourteenth Amendments to the United States Constitution; Article 1, Section 10  
5 of the United States Constitution and Article 1, Section 8, Clause 3 of the United States  
6 Constitution. Jurisdiction exists pursuant to 28 U.S.C. § 1331 and 1343 based on 42 U.S.C.  
7 §1983 and questions of federal constitutional law. Jurisdiction also exists under the  
8 Declaratory Judgment Act, 28 U.S.C. §§ 2201(a) and 2202.

9 2. The Court has supplemental jurisdiction over Plaintiffs’ state law claims  
10 pursuant to 28 U.S.C. § 1367(a), because Plaintiffs’ state constitutional claims arise from  
11 the same nucleus of operative facts as its federal claims and thus form part of the same  
12 case or controversy under Article III of the United States Constitution.

13 3. Venue is proper in the Central District of California in that the events and  
14 conduct complained of herein all occurred in the Central District of California. Plaintiffs  
15 own real property located in Los Angeles County, which is the subject of the taxes and/or  
16 exactions and/or special assessments to be imposed by the ULA.

17 4. Venue is also proper in the Central District of California because the injuries  
18 of Plaintiffs will occur and have occurred in the Central District of California, the  
19 Defendants’ liability arose in the Central District of California, Defendants’ actions and  
20 inactions took place within the Central District of California and Defendants are all  
21 governmental entities residing within the Central District of California.

22 5. Pursuant to *Code of Civil Procedure* §861 and *Government Code* §6063  
23 (should the reverse validation statutes apply), jurisdiction will be perfected as of the date  
24 of the third successive weekly publication of the summons issued in this action in a  
25 newspaper of general circulation.

26 **II. INTRODUCTION AND PARTIES**

27 6. Plaintiffs and Petitioners NEWCASTLE COURTYARDS, LLC, a California  
28 limited liability company, JONATHAN BENABOU, as Trustee on behalf of THE MANI

1 BENABOU FAMILY TRUST, and ROES 1 through 500 (collectively, “Plaintiffs”) bring  
2 this action on behalf of themselves and in the public interest for a writ of mandate,  
3 declaratory relief, injunctive relief, damages, restitution and other appropriate relief and  
4 also as an *in rem* reverse validation action against Defendant and Respondent CITY OF  
5 LOS ANGELES (the “City” or the “City of Los Angeles”), Defendant and Respondent  
6 COUNTY OF LOS ANGELES (the “County” or the “County of Los Angeles”),  
7 Defendant and Respondent COUNTY OF LOS ANGELES RECORDER’S OFFICE (the  
8 “Recorder’s Office”), and all other interested persons (collectively, with the City, County,  
9 and Recorder’s Office as, “Defendants”) out of an abundance of caution to protect the  
10 rights of Plaintiffs and those of the public, to the extent, and only to the extent, that the  
11 validation statutes at *Code of Civil Procedure* §§ 860 *et seq.* are deemed to apply to the  
12 matters alleged herein. Plaintiff also brings this action for, among other things, a writ of  
13 mandate pursuant to *Code of Civil Procedure* §1085 directing Defendants to: (a) vacate  
14 the unlawful operation of Initiative Ordinance ULA (the “ULA” or “ULA Ordinance”),  
15 touted by its proponents as the “Mansion Tax,” a proposed Los Angeles City Ordinance  
16 passed by voter initiative pursuant to the November 8, 2022 general election which  
17 imposes, effective April 1, 2023, a special surcharge transfer tax of 4.0% of the gross  
18 proceeds of sale on all real properties sold in the City of Los Angeles where the sales  
19 prices are more than \$5,000,000 but less than \$10,000,000 and 5.5% of the gross proceeds  
20 of sale where the sales prices are \$10,000,000 or more (collectively the “ULA taxes”), (b)  
21 cease and desist in the collection and enforcement of the unlawful ULA taxes, and (c)  
22 restore to Plaintiffs any and all monies that have been unlawfully charged, collected,  
23 misused or diverted as the unlawful ULA taxes, in an amount according to proof at trial  
24 but, in any event, in excess of this Court’s minimum jurisdiction. In addition, Plaintiffs  
25 are entitled to damages, restitution, declaratory relief, injunctive relief, and attorneys’ fees  
26 and costs as prayed for herein. Therefore, without admitting that the validation statutes  
27 apply to the matters alleged herein or to any other matters related thereto, and without  
28 waiving any rights or remedies, Plaintiffs hereby allege as follows.

1           7.     At all times relevant herein, Plaintiffs are property owners whose real  
2 properties are located in the City of Los Angeles, have values in excess of \$5,000,000 and  
3 are being injured and will be injured by the requirement that they pay the new special ULA  
4 taxes. Plaintiffs are also residents in the County of Los Angeles who pay taxes to the  
5 County of Los Angeles, which taxes, on information and belief, are and/or will be used,  
6 among other things, to fund the operation of the County Recorder's office in its collection,  
7 administration and enforcement of the collection of the ULA tax and to fund the defense  
8 of the County and the ULA against legal challenges regarding the County's collection,  
9 administration and enforcement of collection of the ULA tax.

10           8.     Defendants are all persons/entities interested in the validity of the ULA  
11 Ordinance. Defendants include, but are not limited to, the City of Los Angeles, the County  
12 of Los Angeles, and the County of Los Angeles Recorder's Office.

13           9.     At all times relevant herein, the City of Los Angeles is and was a charter city  
14 of the State of California organized and operating under the Charter of the City of Los  
15 Angeles that passes and implements ordinances, resolutions and policies including,  
16 without limitation, the ULA Ordinance, and collects taxes in respect thereto, including the  
17 ULA taxes purported to be imposed by the ULA Ordinance. Upon information and belief,  
18 the City of Los Angeles became a Charter City in 1903.

19           10.    At all times relevant herein, the County of Los Angeles is and was a county  
20 within the State of California and is, upon information and belief, purportedly responsible  
21 for collecting the ULA taxes purported to be imposed by the ULA Ordinance.

22           11.    At all times relevant herein, the County of Los Angeles is and was a county  
23 within the State of California and is, upon information and belief, purportedly responsible  
24 for collecting the ULA taxes purported to be imposed by the ULA Ordinance and then  
25 transferring said taxes to the City of Los Angeles.

26           12.    At all times relevant herein, the County of Los Angeles Recorder's Office is  
27 and was a branch of the County of Los Angeles and, upon information and belief, is  
28

1 purportedly responsible for collecting the ULA taxes purported to be imposed by the ULA  
2 Ordinance and then transferring said taxes to the City of Los Angeles.

3 13. As members of the sub-class of all property owners owning property in the  
4 City of Los Angeles who may be obligated to pay the ULA taxes and do pay the ULA  
5 taxes imposed by the ULA Ordinance, Plaintiffs are interested persons who have standing  
6 to bring this reverse validation action pursuant to *Code of Civil Procedure* §863 (should  
7 the reverse validation statutes apply) and to bring this petition for writ of mandate pursuant  
8 to *Code of Civil Procedure* §1085.

9 14. Plaintiffs are informed and believe, and based thereon allege, that Defendants  
10 and Does 1 through 500, inclusive, at all relevant times were, and currently are, the agents,  
11 servants, employees and/or representatives of one another, and in such capacity or  
12 capacities have participated in the conduct alleged in this Complaint and were, and  
13 currently are, acting within the scope and furtherance of each of their respective agencies,  
14 servitudes, employment, and/or authorities and in such capacity or capacities have  
15 participated in the acts and omissions alleged in this Complaint or in some manner are  
16 responsible indirectly or directly for the injuries and damages suffered by Plaintiffs.

17 15. The true names and capacities, whether individual, corporate, governmental,  
18 associate or otherwise, of defendants, DOES 1 through 500, inclusive, and each of them,  
19 are unknown to Plaintiffs, who therefore sues said defendant(s) by such fictitious names  
20 (collectively, the “Does” and individually, a “Doe”). Plaintiffs are informed and believe,  
21 and allege thereon, that each of the defendant(s) designated herein as Doe is, in some  
22 manner, legally responsible for the events and happenings referred to herein, and  
23 proximately caused the injuries and damages hereinafter alleged. Plaintiffs shall amend  
24 this Complaint to insert the true names and capacities of said Doe(s) once ascertained.

25 **III. GENERAL ALLEGATIONS**

26 16. Plaintiffs bring this action to invalidate and enjoin the operation of the ULA,  
27 touted by its proponents as the “Mansion Tax,” a proposed Los Angeles City Ordinance  
28 passed by voter initiative pursuant to the November 8, 2022, general election in Los

1 Angeles. (A true copy of the Voter Information Pamphlet (“Voter Information Pamphlet”  
2 or “VIP”) for such Ballot Initiative, which includes the text of the proposed ordinance, is  
3 attached hereto as Exhibit “A”.)

4 17. The ULA prescribes, *inter alia*, that, in addition to and above and beyond the  
5 current, longstanding Documentary Transfer Tax of general application to all real  
6 properties in the city of Los Angeles that exists pursuant to *Revenue and Taxation Code*  
7 Sections 11911-11933 (the “Pre-Existing Transfer Tax”), effective April 1, 2023:

8 (a) all real properties sold in the City of Los Angeles (the “City”)  
9 having a value of over \$5,000,000 to \$9,999,999 shall require  
10 payment to the City of an additional, special “Transfer Tax” of  
11 4% of the gross sales prices of such properties (without regard to  
12 existing encumbrances), and

13 (b) all real properties sold in the City having a value of  
14 \$10,000,000 or more, shall require payment to the City of an  
15 additional, special Transfer Tax of 5.5% of the gross sales prices  
16 of such properties (without regard to existing encumbrances).

17  
18 18. The applicable provision of the ULA reads as follows:

19 *SEC. 21.9.2. TAX IMPOSED. (a) There is hereby imposed on*  
20 *each deed, instrument or writing by which any lands, tenements,*  
21 *or other realty sold within the City of Los Angeles shall be*  
22 *granted, assigned, transferred or otherwise conveyed to, or*  
23 *vested in, the purchaser or purchasers, or any other person or*  
24 *persons, by his or their direction, when the consideration or*  
25 *value of the interest or property conveyed (exclusive of the value*  
26 *of any lien or encumbrance remaining thereon at the time of sale)*  
27 *exceeds \$100.00, a tax at the rate of \$2.25 for each \$500.00 or*  
28 *fractional part thereof. (b) In addition to and separate from any*

1 tax imposed under Subsection (a) of this section, starting on  
2 April 1, 2023, there is hereby imposed a tax known as the  
3 “Homelessness and Housing Solutions Tax” on each deed,  
4 instrument or writing by which any lands, tenements, or other  
5 realty sold within the City of Los Angeles shall be granted,  
6 assigned, transferred or otherwise conveyed to, or vested in, the  
7 purchaser or purchasers, or any other person or persons, by his  
8 or their direction, when the consideration or value of the interest  
9 or property conveyed (including the value of any lien or  
10 encumbrance remaining thereon at the time of sale) exceeds: (1)  
11 \$5,000,000 but is less than \$10,000,000, a tax at the rate of 4%  
12 of the consideration or value; or (2) \$10,000,000 or greater, a  
13 tax at the rate of 5.5% of the consideration or value.

14 (Italics and underlining added.)

15 19. The properties sold in the City whose consideration or value of the interest  
16 or property conveyed (including the value of any lien or encumbrance remaining thereon  
17 at the time of sale) exceeds \$5,000,000 are referred to in this Complaint as the “\$5,000,001  
18 property sub-class.”

19 20. All properties sold for \$5,000,000 or less, even if they are sold for one dollar  
20 less than the properties in the \$5,000,001 property sub-class, are not subject to any  
21 payment whatsoever for this ULA transfer tax (the “\$4,999,999 property sub-class”).

22 21. The new ULA transfer taxes apply even if such properties are (a) sold at a  
23 loss, (b) the sellers are not receiving any net proceeds at all from such sales and/or (c) the  
24 sellers of such properties are not “billionaires” or “millionaires,” which the proponents of  
25 the ULA contended in the Voter Information Pamphlet are the only persons who will pay  
26 for such tax.

1           **A. THE STATED PURPOSE OF THE ULA IS TO REDUCE**  
2           **HOMELESSNESS**

3           22. The expressly stated purpose of the ULA is to reduce homelessness. The very  
4 first line in the arguments in favor of the ULA portion of the Voter Information Pamphlet  
5 says exactly that:

6           Argument in Favor of Initiative Ordinance ULA. As  
7 homelessness and housing experts we encourage you to vote  
8 YES on Initiative Ordinance ULA to reduce homelessness and  
9 protect seniors.

10           (Voter Information Pamphlet, p. 32.)

11           23. The California Supreme Court has stated that, where, as here, a provision has  
12 been adopted by initiative, its intended meaning “*may be resolved by referring to the ballot*  
13 *summary, the arguments and analysis presented to the electorate, and the*  
14 *contemporaneous construction of the Legislature.*” *Los Angeles County Transportation*  
15 *Com. v. Richmond*, 31 Cal. 3d 197, 203 (1982), *superseded on other grounds by*  
16 *Proposition 218, Capistrano Taxpayers Assn., Inv. v. City of San Juan Capistrano*, 235  
17 Cal. App. 4th 1493 (2015) (italics added).

18           24. Referring to the ballot summary and the arguments and analysis presented to  
19 the electorate in the Voter Information Pamphlet for the ULA, it states in the “Impartial”  
20 section of the Voter Information Pamphlet that at least 92 percent of the proceeds from  
21 the tax would be deployed to programs under the “Homeless Prevention Program” (VIP,  
22 p. 29.)

23           25. The Voter Information Pamphlet also states:

24           “Here’s how it works: ...The money would be used to reduce homelessness.” (VIP,  
25 p. 29.)

26           “ULA will prevent new homelessness before it even starts, raising an estimated \$240  
27 million per year... .” (VIP, p. 39.)  
28

1 “Unlike past efforts, this measure would create sustained funding *to reduce*  
2 *homelessness* with oversight from an independent *board of homelessness and housing*  
3 *experts... .*” (VIP, p. 33.)

4 “You can tell a lot about a measure based on who supports it and who doesn’t.  
5 Initiative Ordinance *ULA was drafted by homeless service providers... .*” (VIP, p. 32.)

6 “We’re *homelessness service providers...and ask you to vote yes. Yes to reduce*  
7 *homelessness.*” (VIP, p. 33.)

8 “Over the next ten years, Measure *ULA will raise more resources to address*  
9 *homelessness than the City of LA has ever had before.*” (VIP, p. 39.)

10 “The bottom line is this: Millionaires and billionaires cashing in on mega properties  
11 can afford to pay the ‘mansion tax,’ and *we’ll all benefit from reduced homelessness* when  
12 they chip in and pay their fair share.” (VIP, p. 32.)

13 “Every day, 227 people in LA become *homeless*, based on the official results of the  
14 2020 *homeless* count. If ULA were passed last year, it would have raised \$240 million *to*  
15 *prevent homelessness* and \$565 million to build housing for people *experiencing*  
16 *homelessness.*” (VIP, p. 40.)

17 **B. THE REDUCTION OF HOMELESSNESS IS A MATTER OF**  
18 **STATEWIDE CONCERN, IT IS NOT MERELY AN ISSUE OF**  
19 **INTRA-MUNICIPAL CONCERN WHICH IS GOVERNED BY**  
20 **THE HOME RULE DOCTRINE**

21 26. Homelessness does not just exist in the City of Los Angeles. It exists in  
22 immediately adjacent cities such as Inglewood, West Hollywood, Culver City, Burbank,  
23 Beverly Hills and Santa Monica, as well as every other city and county in California (and,  
24 indeed, in the United States and in every other country of the world).

25 27. There are no barriers, physical or legal, between the City of Los Angeles and  
26 these immediately adjacent cities that keep homeless persons from moving between such  
27 adjacent cities and the City of Los Angeles. In some cases, one side of a street is located  
28 in the City of Los Angeles, while the other side of the street is located in a different city.

1 For example, in some portions, the north side of Venice Boulevard is located in the City  
2 of Los Angeles, while the south side of Venice Boulevard is located in the city of Culver  
3 City. Similarly, in some portions, the west side of Doheny Drive is located in the City of  
4 Los Angeles, while the east side of Doheny Drive is located in the City of Beverly Hills  
5 or the City of West Hollywood.

6 28. By the very nature of “homelessness,” homeless people are residents of no  
7 fixed address. A homeless person might very well sleep one night in Los Angeles, another  
8 in Beverly Hills, another in West Hollywood, another in Culver City, another in Santa  
9 Monica, and another in yet a different neighboring county such as Orange County, Ventura  
10 County, San Bernardino County or Riverside County. A homeless person can certainly  
11 cross a street, such as Venice Boulevard or Doheny Drive, from Los Angeles to arrive at  
12 Culver City, Beverly Hills, or West Hollywood and vice versa.

13 29. Upon information and belief, homeless persons come to Los Angeles from  
14 all over the United States and even other countries, legally and illegally. Upon information  
15 and belief, Los Angeles is particularly attractive to homeless persons from colder climates  
16 because of its warm weather, particularly in winter.

17 30. Upon information and belief, to the extent that the ULA achieves its goal of  
18 improving the lives of homeless people and providing homes for them, the City of Los  
19 Angeles can expect that many more homeless persons will come from outside of Los  
20 Angeles to receive such benefits all paid for by the owners of the \$5,000,001 property sub-  
21 class, comprising the relatively very few property owners who happen to sell a property  
22 in the City of Los Angeles for more than \$5,000,000. Upon information and belief,  
23 homeless persons would certainly cross a street, 50 or so feet, from a neighboring city to  
24 travel to Los Angeles on the other side of such street to receive such benefits.

25 31. Some homeless persons who may benefit from the ULA can be expected to  
26 come from places outside of the City’s boundaries, perhaps even outside the United States’  
27 borders. Since they are “homeless” they are not restricted to Los Angeles’ municipal  
28 borders either before or after they receive benefits from the ULA funding.

1           32. Some such homeless persons after they receive, for example, educational  
2 resources funded by the ULA, may, in turn, leave the confines of the City of Los Angeles,  
3 perhaps merely by crossing a street to a neighboring city on the other side of such street.  
4 As such, the benefits of the ULA funding will benefit persons outside of the borders of the  
5 City of Los Angeles.

6           33. The stated goal of the ULA (i.e., the reduction of homelessness), is a matter  
7 of statewide concern. In a September 2022 statewide survey by the Public Policy Institute  
8 of California, 14% of Californians mentioned homelessness as the most important issue  
9 facing the state, a share that is second only to jobs, the economy, and inflation. Solid  
10 majorities across regions in California saw homelessness as a big problem, with the  
11 exception of only Orange and San Diego Counties, where about half hold that view.

12           34. Numerous bills proposed by both the California Assembly and the California  
13 Senate directly target homelessness, e.g. AB 2547 “*Housing Stabilization to Prevent and*  
14 *End Homelessness Among Older Adults and People With Disabilities Act*” (requiring the  
15 California Department of Aging to create and administer the Housing Stabilization to  
16 Prevent and End Homelessness Among Older Adults and People with Disabilities  
17 Program; AB 2325 “*Coordinated Homelessness Response*” (requiring the California  
18 Interagency Council on Homelessness to convene a funder’s workgroup to accomplish  
19 specified goals related to ending homelessness; AB 2569 “*Department of Homelessness*  
20 *Prevention, Outreach and Support*”, (requiring the California Health and Human Services  
21 Agency to create a Department of Homelessness Prevention, Outreach and Support).

22           35. The State has also proposed Grant Programs and other Funding Sources  
23 related to the reduction of homelessness such as SB 1006 “*Law Enforcement: Homeless*  
24 *Outreach Teams*” (requiring the Department of Justice to administer a competitive grant  
25 program to enable local law enforcement agencies to establish and operate homeless  
26 outreach teams; SB 1427 “*Board of State and Community Corrections: Homeless and*  
27 *Mental Health Court and Transitioning Home Grant Programs* (requiring the Board of  
28 State and Community Corrections to establish two new grant programs: *the Homeless and*

1 *Mental Health Court Grant Program and the Transitioning Home Grant Program*); SB  
2 1282 “*Homelessness: Addiction Treatment and Prevention: Funding*” (requiring relevant  
3 state and local departments to consider the use of funds received under the terms of the  
4 2021 Multistate Opioid Settlement Agreement settlement for the treatment and prevention  
5 of addiction within the homeless population; AB 2483 “*Housing for Individuals*  
6 *Experiencing Homelessness*” (requiring the Department of Housing and Community  
7 Development, to award reasonable priority points to Multifamily Housing Program project  
8 applicants that agree to set aside at least 25 units for individuals that are either  
9 experiencing homelessness or eligible to receive specified services, including, among  
10 others, those received under the Program of All-Inclusive Care for the Elderly).

11 36. California Assembly Bill AB 83 which was enacted and signed by the  
12 Governor on June 29, 2022, addresses homelessness as a matter of state-wide concern.  
13 These aforementioned bills are just a glimpse of the literally dozens of bills passed and/or  
14 proposed by the California State Government that, cumulatively, upon information and  
15 belief, address all or substantially all of the same issues and more, relating to homelessness  
16 that are purported to be addressed by the ULA. Attached hereto as Exhibit “B” is an article  
17 from February 26, 2022 that identifies and describes twenty-one (21) such bills. The sheer  
18 number of bills of the State of California concerning homelessness demonstrates that  
19 homelessness is clearly a matter of state-wide concern and not merely of concern to the  
20 City of Los Angeles.

21 37. Upon information and belief, some owners of properties within the  
22 \$5,000,001 property sub-class do not reside within the borders of the City of Los Angeles  
23 or even in the State of California and reasonably relied, in their acquisition of properties  
24 in Los Angeles, on reasonable investment backed expectations that the laws of the state  
25 of California, and particularly its Constitutional provisions, would protect them from the  
26 imposition of transfer taxes that are prohibited by such laws and such Constitution.

27 38. Unlike the situation in *Fielder v. City of Los Angeles*, 14 Cal. App. 4th 137  
28 (1993), the revenues from the ULA taxes will not merely support the City’s finances.

1 Because homeless persons, literally “have no home” and come from all over, such as  
2 adjacent cities like West Hollywood, Santa Monica, Inglewood, Burbank and Beverly  
3 Hills, as well as other cities in California, other states and even other countries and are not  
4 just residents of the City of Los Angeles, much of such “[p]rogram funds [which] would  
5 be allocated primarily for supportive and affordable housing programs, including  
6 development, construction, acquisition, rehabilitation, and operation of housing” and  
7 “[f]unds [which] also would be allocated for financial, educational, and other resources  
8 to low-income and other tenants at risk of homelessness, displacement, or eviction” (VIP,  
9 p. 41), upon information and belief, will be spent on persons outside of the City of Los  
10 Angeles.

11 39. Upon information and belief, the benefits of the ULA revenues will be a  
12 magnet for homeless persons not only from neighboring cities such as Culver City, Santa  
13 Monica, Inglewood and West Hollywood, but from all over the country and even outside  
14 the country and will encourage them to come to the City of Los Angeles so that such ULA  
15 revenues may be spent on them.

16 40. Upon information and belief, the benefits of such ULA funds paid for entirely  
17 by the small group of owners of the \$5,000,001 property sub-class will be conferred upon  
18 the neighboring cities because such cities’ own societal homeless problem will be reduced  
19 when some of their homeless population migrates to Los Angeles to benefit from the ULA  
20 funds.

21 41. The values of such properties of the \$5,000,001 property sub-class in Los  
22 Angeles can reasonably be expected to drop because they are unfairly and discriminatorily  
23 burdened with the costs of essentially reducing the world’s homelessness problem while  
24 property owners of properties equivalent to those of the \$5,000,001 property sub-class,  
25 except that they are located in neighboring cities such as Beverly Hills, will see their  
26 property values correspondingly increase because they are not so encumbered by such an  
27 enormous burden.  
28

1 42. It cannot credibly be disputed that homelessness is a matter of statewide  
2 concern that is not limited to the confines of the municipal borders of the City of Los  
3 Angeles.

4 C. **THE (RETROACTIVE) IMPAIRMENT BY THE ULA TAX OF**  
5 **THE SECURITY OF LOANS ISSUED BY FEDERALLY**  
6 **CHARTERED LENDING INSTITUTIONS AND/OR LOANS**  
7 **INSURED AND/OR GUARANTEED BY FEDERAL AGENCIES**  
8 **AND/OR FEDERALLY SPONSORED AGENCIES IS ALSO A**  
9 **MATTER OF STATEWIDE (INDEED NATIONWIDE)**  
10 **CONCERN. IT IS NOT MERELY AN ISSUE OF INTRA-**  
11 **MUNICIPAL CONCERN WHICH IS GOVERNED BY THE**  
12 **HOME RULE DOCTRINE**

13 43. On information and belief, the loan to value ratio of a loan secured by real  
14 property, i.e. the dollar amount of the loan divided by the realizable value of the security  
15 of the loan upon an arm's length sale, is amongst the most important mathematical criteria  
16 applied by lenders in their determinations whether or not to issue a loan. On information  
17 and belief, such loan to value ratio is important because it provides the lender, inter alia,  
18 with a means to calculate and quantify the risk that the loan will not be fully repaid if a  
19 distressed borrower or the lender must sell the property if the loan payment requirements  
20 cannot be satisfied.

21 44. On information and belief, the loan to value ratio is also used and relied upon  
22 by Federal agencies and federally sponsored agencies, including, but not limited to Freddie  
23 Mac, Fannie Mae, FHA and the SBA to determine whether to issue and/or to insure and/or  
24 to guarantee such loans and/or how much to charge the borrower for insurance and/or  
25 guarantee premiums for such loans.

26 45. On information and belief, because of the sheer magnitude of the ULA taxes,  
27 i.e. 4.0% to 5.5% of the gross sales proceeds of properties in the \$5,000,001 property sub-  
28 class, the ULA has retroactively and materially impaired the loan to value ratio of

1 hundreds, if not thousands, of pre-existing loans in the City of Los Angeles on real  
2 properties comprised in the \$5,000,001 property sub-class. On information and belief,  
3 such pre-existing loans, include, but are not limited to loans issued and/or insured and/or  
4 guaranteed by Federally chartered and Federally sponsored financial institutions that  
5 operate throughout the United States (including but not limited to Freddie Mac, Fannie  
6 Mae, FHA and the SBA) whose loan to value ratios have been retroactively and materially  
7 impaired by the ULA by, inter alia, retroactively interposing the charge of such new ULA  
8 transfer taxes into a position that is superior to the liens of such previously issued  
9 mortgages. Such retroactive impairment by the ULA tax of such loan to value ratios has  
10 resulted in a hitherto unanticipated and unpredictable reduction of 4% to 5.5% in the gross  
11 realizable value upon sale of the \$5,000,001 property sub-class of properties secured by  
12 such pre-existing loans, and has retroactively, imposed a greater risk of loss onto such  
13 lenders and/or insurers and/or guarantors of such loans which has, thereby, devalued such  
14 loans.

15 46. Because the ULA Tax (retroactively) impairs the legal rights, security,  
16 reasonable investment backed expectations and obligations of federally issued and/or  
17 federally sponsored loans and/or federally insured and/or federally guaranteed loans, it  
18 is not, by any measure, "purely local in its effects". Rather, the ULA materially impairs  
19 and invades the rights and obligations of both interstate and intra-state banking and the  
20 issuance, insurance and guarantees of loans by federally chartered banking institutions as  
21 well as federal agencies and federally sponsored agencies that operate both throughout the  
22 state of California and throughout the U.S. The ULA is, therefore, not protected by the  
23 home rule powers conferred on charter cities by California Constitution, article XI, section  
24 (5).

25 47. The ULA falls squarely within the ruling of *California Fed. Savings & Loan*  
26 *Assn. v. City of Los Angeles* (1991) 54 Cal. 3d 1, 283 Cal. Rptr. 569, 812 P.2d 916, in that  
27 the ULA materially interferes with federal and state regulation of real estate mortgage  
28

1 lending, matters of federal and statewide concern and not merely matters of an intra-  
2 municipal nature.

3 48. The California Supreme Court stated in *California Fed.* (supra):  
4 “Centralized command over the intrastate tax burden on savings  
5 banks thus provides an additional and increasingly important  
6 regulatory lever.... ***And because the comprehensive regulation of***  
7 ***savings banks takes place almost entirely at state and federal***  
8 ***levels, these regulatory aspects of taxation necessarily transcend***  
9 ***local interests; they become, in other words, a subject of statewide***  
10 ***concern.***” (Id. at pp. 22-23, 283 Cal.Rptr. 569, 812 P.2d 916.)  
11 [underlining, bold and italics added]

12 49. For all the foregoing reasons, the ULA is a matter of statewide (indeed,  
13 nationwide) concern and is not protected by “home rule”. The small group of owners of  
14 \$5,000,001 property sub-class in Los Angeles cannot, in any fairness, or by law or the  
15 constitutions of California and the United States be expected to shoulder the tax burden  
16 for extra-municipal societal problems of cities, states and even countries outside of the  
17 City of Los Angeles.

18 **D. THE ULA UNCONSTITUTIONALLY (I.E. WITHOUT A**  
19 **RATIONAL BASIS) USES *GROSS SALES PROCEEDS* AS A**  
20 **PROXY FOR ABILITY TO PAY**

21 50. The proponents of the ULA state in the Voter Information Pamphlet: “*It will*  
22 *be paid for by millionaires and billionaires. Unlike past measures, the majority of people*  
23 *in LA will not pay a single penny.*” (VIP, p. 39.)

24 51. The proponents also state in the Voter Information Pamphlet: “*The bottom*  
25 *line is this: Millionaires and billionaires cashing in on mega properties can afford to pay*  
26 *the ‘mansion tax’ and we’ll all benefit from reduced homelessness when they chip in and*  
27 *pay their fair share.*” (VIP, p. 32.)  
28

1           52. The Voter Information Pamphlet emphasizes that the ULA impacts only a  
2 small fraction of properties and states that: “*It would have applied to only 3% of all real*  
3 *estate sales in 2019 (those selling for more than \$5 million). Let’s be clear: Only people*  
4 *selling real estate for more than \$5 million will pay this tax. No one else will.*” (VIP, p.  
5 32.) The Voter Information Pamphlet further states that of the many thousands of sales of  
6 homes and condos in Los Angeles: “... *this tax would have applied to only 2.5% of home*  
7 *and condo sales in 2021-2022. The millionaires and billionaires cashing in can afford to*  
8 *pay their taxes.*” (VIP, p. 39.)

9           53. Upon information and belief, 3% of the residential *and* commercial real estate  
10 sales in 2022 was approximately only 1,021 total sales, and a search by the Daily News  
11 on real estate site Redfin, looking only at *single-family* homes that sold for more than \$5  
12 million during the past two years, found approximately 1,000 such sales in Los Angeles  
13 or, on average, about 500 such sales per year.

14           54. Though all property owners in Los Angeles are subject to the longstanding  
15 and already existing graduated and apportioned Pre-Existing Transfer Tax of general  
16 application, the proponents of the ULA made it clear in the Voter Information Pamphlet  
17 that the ULA is intended to apply only to a very small percentage (2-3%) of such property  
18 owners who, according to such proponents, are “*millionaires and billionaires cashing in.*”

19           55. Unlike the Pre-Existing Transfer Tax which applies to every real property in  
20 Los Angeles and is paid for by every property owner, the ULA taxes are paid for only by  
21 the very small percentage of property owners whose properties sell for a gross sales price  
22 of more than \$5,000,000. All other property sellers do not pay a penny of the ULA taxes,  
23 even if their properties sell for \$1 less than the \$5,000,000 threshold.

24           56. Also, unlike the Pre-Existing Transfer Tax, the ULA taxes are applied to the  
25 *gross* sales proceeds without subtraction for existing indebtedness that is assumed by the  
26 buyer. The magnitude of the ULA taxes is also far greater than the magnitude of the Pre-  
27 Existing Transfer Tax for each sales transaction to which both taxes apply.

28

1 57. As expressly stated by the proponents in the ULA Voter Information  
2 Pamphlet, sellers of properties covered by the ULA are deemed by these ULA proponents  
3 to be able to “*afford to pay*” the ULA taxes, simply because the gross sales price of their  
4 properties (with no deduction for any mortgage balance that must be paid off, brokerage  
5 commissions, title insurance, escrow costs, taxes under the Pre-Existing Transfer Tax or  
6 any other sales costs) exceeds \$5,000,000.

7 58. Such ULA taxes on the gross sales price apply even if such properties are  
8 being sold (a) at a loss, (b) under distress circumstances, such as a divorce, death, job loss,  
9 employment transfer, loss of a key tenant, business failure or bankruptcy and/or because  
10 the property owners can no longer afford to keep them, (c) because the property may have  
11 been encumbered to such a degree that after payment of the encumbrances and selling  
12 costs such as broker’s commissions, escrow costs, title insurance and the Pre-Existing  
13 Transfer Tax, there will be no net proceeds available from the sale to even pay the ULA  
14 taxes, and (d) even if the seller is neither a billionaire nor a millionaire, nor for that matter,  
15 even financially solvent.

16 59. The ULA will apply to all real property in Los Angeles, of any type, that sells  
17 for more than \$5,000,000, including, but not limited to, single family homes, small  
18 apartment buildings, commercial properties, industrial properties, retail properties, hotels,  
19 medical buildings, parking lots and vacant land. The gross values of each of these types  
20 of properties are determined by entirely different metrics from one another.

21 60. The gross sales price of a single-family home may be determined by the gross  
22 value of similar homes sold in the same neighborhoods. The gross sales price of such a  
23 property may be influenced by its location, the amount of land it possesses, its views, the  
24 age of its improvements, the size of its improvements, the condition of its improvements  
25 and/or its architectural features.

26 61. The gross sales prices of office buildings depend on the rents they receive  
27 from their tenants, the creditworthiness of their tenants, the lengths of their leases, their  
28 abilities to raise their tenants’ rents, their locations, the ages of their improvements, the

1 size of their improvements, the condition of their improvements, the tenant improvements  
2 which have been made for existing tenants and/or which will need to be made to fill  
3 vacancies, their vacancy rates, their efficiency of management, the availability of  
4 financing to purchase them, the rates and terms of such financing, the existence of deferred  
5 maintenance and numerous other factors that have very little in common with other  
6 classifications of real property.

7 62. The gross sales value of raw land, for example, which generally receives no  
8 income, depends greatly, not only on its location, but upon what uses may legally be made  
9 of such land, i.e. what can be built on it, what general plan designation does it have, what  
10 zoning does it have, what entitlements does it possess, what entitlements does it need, the  
11 likelihood of obtaining such entitlements, how long will it take to get those entitlements,  
12 and what will it cost to obtain such entitlements or to construct the improvements thereon.  
13 The owner of a piece of raw land, unless it is built upon, generally only makes a profit, if  
14 at all, if the owner can sell the property for more than he or she paid for it and for all the  
15 costs of holding it until sale, such as interest costs, property taxes and marketing costs  
16 (such as broker's commissions). A ULA tax on that property can turn such a hold of raw  
17 land into a loss and can even render it impossible for the owner to sell because it will not  
18 yield enough net proceeds to pay the ULA tax after payment of all existing encumbrances  
19 and any other taxes due.

20 **E. THE CITY EXCEEDED ITS JURISDICTION AND**  
21 **AUTHORITY IN IMPOSING COSTS, RESPONSIBILITIES**  
22 **AND OBLIGATIONS UPON THE COUNTY REGARDING**  
23 **THE ULA TAX.**

24 63. The ULA, which was passed by a City of Los Angeles initiative and  
25 purportedly implemented by a City of Los Angeles Ordinance, imposes costs, duties,  
26 obligations and liabilities upon the County of Los Angeles, the County Recorder's office  
27 and the County's taxpayers to collect the ULA tax, enforce the collection of the ULA tax  
28

1 and defend, in court actions, such as this one, the validity and enforceability of the ULA  
2 and the ULA tax.

3 64. The County, however, is bound and governed by the State Constitution, state  
4 statutes, its own resolutions passed by the County Board of Supervisors and any  
5 agreements entered into by the County, through resolutions of the County Board of  
6 Supervisors. The County, however, is not bound by either initiatives passed by the voters  
7 of a city but not the voters of the County itself, or a city's ordinances, unless the County  
8 Board of Supervisors has expressly undertaken by a vote to be so bound by it or unless it  
9 is bound by a pre-existing statute or the State Constitution to be bound by such a city  
10 initiative or ordinance.

11 65. While, by statute and/or County Board of Supervisors resolution, the County  
12 is bound to collect the Pre-Existing Transfer Tax, the County is not bound by statute or by  
13 a resolution of the county board of supervisors to collect the ULA tax, enforce the  
14 collection of the ULA tax and/or pay to defend and defend, in court actions, the validity  
15 and enforceability of the ULA and the ULA tax. Nor have the taxpayers in Los Angeles  
16 County outside of the City of Los Angeles been given an opportunity to vote as to whether  
17 their county tax monies should be expended to collect the ULA tax, enforce the collection  
18 of the ULA tax and/or be expended to defend, in court proceedings, such as this one, the  
19 validity of the ULA and the ULA tax.

20 66. The County is not a subordinate agency of the City of Los Angeles and it is  
21 not legally bound nor legally authorized to undertake costs, responsibilities and  
22 obligations in respect to the ULA and the ULA tax, merely because some members of the  
23 City's electorate passed an initiative that purports to impose all of such costs,  
24 responsibilities and obligations upon the County and all of its taxpayers and/or the City  
25 passed an ordinance purporting to implement such initiative.

26 67. As such, the City exceeded its jurisdiction in purporting to impose such costs,  
27 responsibilities and obligations upon the County and its taxpayers. The County is neither  
28 legally bound, nor legally authorized to undertake the costs, responsibilities and

1 obligations purportedly imposed by the City on the County and its taxpayers. In fact, as  
2 set forth herein, the ULA and the ULA tax are illegal and unconstitutional, and the County  
3 should be enjoined from undertaking and/or expending any such unauthorized costs,  
4 and/or undertaking any responsibilities and obligations to collect the ULA tax, enforce the  
5 collection of the ULA tax and/or spend money or other resources in defending, in this  
6 action, and in any other action, the validity of the ULA and the ULA tax.

7 **FIRST CLAIM FOR RELIEF**

8 **(Violation of Equal Protection – Against Defendants)**

9 68. Plaintiffs re-allege and incorporate herein by this reference each and every  
10 allegation set forth in paragraphs 1 through 67 as though fully set forth herein.

11 69. The ULA violates both the 14th Amendment of the United States  
12 Constitution and the Equal Protection Clause of the California Constitution because, as  
13 held in *Stewart Dry Goods Co. v. Lewis*, 294 U.S. 550 (1935) (“*Stewart*”), a tax, as here,  
14 based on gross sales rather than net income is an arbitrary and irrational metric for  
15 determining the ability to pay a tax.

16 70. While the true legal characterization of the “transfer tax” prescribed in the  
17 ULA is yet to be determined by a Court of Law and Plaintiffs contend that it may well be  
18 better legally characterized as an unconstitutional and illegal monetary exaction or an  
19 unconstitutional and illegal special assessment, rather than a “tax,” if it is a “transfer tax,”  
20 it is an unconstitutional one.

21 71. As noted by the Court of Appeal in *Ashford Hospitality v. City and County*  
22 *of San Francisco*, 61 Cal. App. 5th 498, 501 (2021) (“*Ashford*”), *as modified on denial of*  
23 *reh’g (Mar. 8, 2021), review denied (May 26, 2021)*: “*The transfer tax is an excise tax on*  
24 *the conveyance of real property.*” (Italics added.)

25 72. If the “transfer taxes” required by the ULA constitute “excise taxes” they are  
26 unconstitutional as being in violation of the equal protection clauses of the United States  
27 Constitution and California Constitution because, *inter alia*, such excise taxes that, as in  
28

1 the ULA, utilize gross sales amounts as a proxy for ability to pay, are arbitrary and  
2 irrational.

3 73. The United States Supreme Court held in *Stewart, supra*, where, (as in the  
4 ULA) gross sales (rather than net income) are used as the justification for the taxpayer's  
5 purported ability to pay such excise tax (as touted by the proponents of ULA that only  
6 "billionaires" and "millionaires" would pay such tax), such justification is arbitrary and  
7 irrational and, therefore, in violation of both the United States Constitution and the  
8 California Constitution.

9 74. The various types of real properties (e.g., single family residential, office  
10 buildings, industrial, hotels, shopping centers, parking lots, apartment buildings, raw land,  
11 etc.) constitute entirely different types of "merchandise," whose gross sales do not bear a  
12 constant relation to their net profits to their sellers, the net operating profits vary year to  
13 year on the same buildings, the gross sales proceeds and the net sales proceeds from a sale  
14 vary with the character of the building and the diverse kinds of real properties each yield  
15 differing ratios of profit or loss when sold.

16 75. The United States Supreme Court in *Stewart, supra*, 294 U.S. at 558-559,  
17 stated:

18 Argument is not needed, and indeed practical admission was  
19 made at the bar, that the *gross sales* of a merchant *do not bear a*  
20 *constant relation to his net profits*; that net profits vary from  
21 year to year in the same enterprise; that diverse kinds of  
22 merchandise yield differing ratios of profit; and that gross and  
23 net profits vary with the character of the business as well as its  
24 volume. The trial court made *no finding that the relation*  
25 *between gross sales and net profits, or increase of net worth,*  
26 *was constant, or even that there was a rough uniformity of*  
27 *progression within wide limits of tolerance.*

28 (Emphasis added.)

1           76. The California Court of Appeal recently summarized the holding of *Stewart*  
2 as follows:

3           The court held that the graduated tax could not be justified by a  
4 merchant's ability to pay because the gross receipts tax was  
5 imposed regardless of whether a merchant made a profit.

6 *Ashford, supra*, 61 Cal. App. 5th at 505 (citing *Stewart*).

7           77. The United States Supreme Court in *Stewart* stated:

8           **The difference in effect between a tax measured by gross**  
9 **receipts and one measured by net income, recognized by our**  
10 **decisions, is manifest and substantial, and it affords a**  
11 **convenient and workable basis of distinction between a direct**  
12 **and immediate burden upon the business affected and a**  
13 **charge that is only indirect and incidental. A tax upon gross**  
14 **receipts affects each transaction in proportion to its magnitude**  
15 **and irrespective of whether it is profitable or otherwise.**  
16 **Conceivably it may be sufficient to make the difference**  
17 **between profit and loss, or to so diminish the profit as to**  
18 **impede or discourage the conduct of the commerce. A tax**  
19 **upon the net profits has not the same deterrent effect, since it**  
20 **does not arise at all unless a gain is shown over and above**  
21 **expenses and losses, and the tax cannot be heavy unless the**  
22 **profits are large.**

23 294 U.S. at 558 (emphasis added).

24           **As we have said, the statute does not purport to levy a tax on**  
25 **incomes. Plainly it does not in fact do so. A merchant having**  
26 **a gross business of \$1,000,000, but a net loss, must pay a**  
27 **greater tax than one who has a gross of \$400,000 and realizes**  
28 **a substantial net profit.** The record discloses such a situation.

1 *Id.* at 560 (emphasis added).

2 *The law arbitrarily classifies these vendors for the imposition*  
3 *of a varying rate of taxation, solely by reference to the volume*  
4 *of their transactions, disregarding the absence of any*  
5 *reasonable relation between the chosen criterion of*  
6 *classification and the privilege the enjoyment of which is said*  
7 *to be the subject taxed.* It exacts from two persons different  
8 amounts for the privilege of doing exactly similar acts  
9 because the one has performed the act oftener than the other.

10 *Id.* at 566 (emphasis added).

11 78. The United States Supreme Court, in invalidating the tax, as here, based on  
12 the *gross proceeds* rather than the net proceeds, or profit, suggested that a fairer tax that  
13 would not have violated Equal Protection would be an income tax or flat tax: “*The record*  
14 *fails to show that an income tax or a flat tax on sales would not accomplish the desired*  
15 *end.*” 294 U.S. at 563 (italics added).

16 79. Many examples applicable to the ULA tax can be presented to demonstrate  
17 the reasons that the Supreme Court found that the *gross sales* basis for applying a tax,  
18 which is the same as the ULA tax, was held to be arbitrary and irrational, and, therefore,  
19 in violation of the equal protection clauses of both the United States Constitution and the  
20 California Constitution.

21 80. For example, a property owner that sells for \$2,000,000 a property that is  
22 unencumbered with debt will have far more net proceeds from a sale than a property owner  
23 that sells a \$5,000,001 property having an 80% mortgage. Yet the latter seller who obtains  
24 the least amount of net proceeds will be required to pay the ULA tax while the former  
25 seller who obtains more proceeds from the sale pays nothing under the ULA. This is  
26 arbitrary and irrational.

27 81. One property owner could sell five (5) single family homes, individually,  
28 *seriatim*, for \$4,000,000 each, for total gross sales of \$20,000,000, and pay nothing under

1 ULA while another could sell one apartment building for the same \$20,000,000 and be  
2 liable for a tax burden of \$1,100,000. This is arbitrary and irrational.

3 82. A property owner who owns a ten-unit condominium building could sell the  
4 individual units, *seriatim*, for \$1,100,000 each, for a total of \$11,000,000 and pay no ULA  
5 taxes, but if he sells the very same building in bulk for half that price (\$5,500,000), he  
6 will owe the ULA tax of \$220,000. Likewise, if a landowner subdivides his land into ten  
7 parcels which he sells, *seriatim*, for \$1,100,000 each, for a total of \$11,000,000, he pays  
8 no ULA taxes. If he sells the entire parcel for half of that price (\$5,500,000), he pays the  
9 ULA taxes. It is irrational and arbitrary that the very same owner could sell the very same  
10 building or land and, in the case where he sells it for a **greater** gross sales price, he would  
11 pay no tax whereas if he sells it in bulk for a **lesser price**, he would be required to pay the  
12 ULA taxes.

13 83. One property owner could own five (5) adjacent apartment buildings each  
14 having a different assessor's parcel number and sell each of them individually, *seriatim*,  
15 for \$4,000,000 apiece, for an aggregate gross sales price of \$20,000,000 and pay nothing  
16 under the ULA, while his neighbor next door may own five (5) identical apartment  
17 buildings on one lot, having one assessor's parcel number and be liable for \$1,100,000 in  
18 ULA taxes. This disparate treatment in respect to two identical properties is arbitrary and  
19 irrational. There is no rational basis for treating each of these sets of two property owners  
20 differently and imposing a highly onerous burden on the one property owner to pay the  
21 costs of the public purpose of reducing homelessness, while the other property owner  
22 selling identical properties, bears no such burden whatsoever to solve such public burden.

23 84. Two property owners may have bought identical houses next door to one  
24 another. One property owner may have taken on debt to improve his house. The other did  
25 not. The one with the debt may have boosted the sales price of his house to \$5,000,001  
26 because of the debt and work he took on to improve his house. The debt free house next  
27 door sells for \$4,900,000. The indebted seller has to pay ULA taxes, the debt free one does  
28 not.

1 85. Upon information and belief, many, if not the vast majority of such properties  
2 in the \$5,000,001 property sub-class, are owned by persons who are not billionaires or  
3 even millionaires, and many will not even turn a profit upon their sale and may result in a  
4 loss. It is arbitrary and irrational to conclude that just because a real property, be it a single-  
5 family home, shopping center or raw land, may sell for a gross sales price of \$5,000,001  
6 or more, the seller of the property is able to afford to pay a tax of 4% or 5.5% of the gross  
7 sales price.

8 86. It is also arbitrary and irrational to conclude that a property owner whose  
9 property sells for \$5,000,001 can more ably afford to pay a tax of 4% of the gross sales  
10 price of such property, than a property owner who sells his property for \$4,999,999 or,  
11 indeed, any lesser amount, who, under the ULA is not required to pay any such ULA taxes.

12 87. Upon information and belief, many persons who own one or more properties  
13 in the \$4,999,999 property sub-class may have far greater wealth and ability to pay taxes  
14 than owners of properties in the \$5,000,001 property sub-class.

15 88. The gross sales price of a property is not a rational metric for determining  
16 whether the seller is more able to pay ULA taxes than any other person who does not own  
17 real property, nor is it a rational metric for concluding whether the seller is even a person  
18 of wealth or even solvency, much less a “billionaire” or “millionaire.” Many of such  
19 properties in the \$5,000,001 property sub-class, particularly office buildings and shopping  
20 centers, are owned by the pension and retirement funds for working class persons such as  
21 teachers, police and firefighters, who are far from being either billionaires or millionaires  
22 and, who, individually cannot afford to pay the ULA taxes.

23 89. Upon information and belief, many persons who have no real properties at  
24 all have far greater wealth and ability to pay to reduce homelessness than owners of  
25 properties in the \$5,000,001 property sub-class. For example, persons owning no real  
26 estate, may own millions of dollars in cash, stock, bonds, jewelry, vehicles, yachts,  
27 aircraft, intellectual property, crypto currency, artwork or any number of other forms of  
28 valuables and may have a far greater ability to pay taxes or pay to reduce homelessness

1 than the owners of real property covered by the ULA, whom the proponents of the ULA  
2 have falsely and deceptively labeled as being all “billionaires” or “millionaires.”

3 90. Upon information and belief, many property owners may have liens and  
4 encumbrances on their properties, with little or no equity, and no net proceeds or  
5 insufficient net proceeds of sale with which to pay the ULA taxes, which are taxed on the  
6 “gross sales proceeds” irrespective of whether the “net” proceeds (after encumbrances,  
7 broker’s commissions, recording fees, the Pre-Existing Transfer Tax, etc.) are sufficient  
8 to pay said taxes.

9 91. As in *Stewart*, even if the gross sales prices are the same, the relative tax  
10 burden on the \$5,000,001 property sub-class of one type of property will be wildly  
11 different than the relative tax burden on the others in the \$5,000,001 property sub-class.  
12 No rational conclusion can be drawn that just because any of these various types of  
13 properties sells for \$5,000,001, the seller can afford to pay such tax while a person owning  
14 a property in the \$4,999,999 property sub-class who sells his property for \$5,000,000 or  
15 less cannot, or that there is any fairness in such \$5,000,001 property sub-class having to  
16 pay the ULA taxes while the \$4,999,999 property sub-class pays no such tax whatsoever,  
17 for the sake of reducing homelessness, a society wide problem that should be borne by the  
18 public, as a whole.

19 92. All of the foregoing examples demonstrate why the ULA’s choice of “gross  
20 proceeds of sale” as a proxy for “ability to pay” is arbitrary and irrational as held by the  
21 United States Supreme Court in *Stewart*.

22 93. This Court should follow the precedent set forth in *Stewart* and hold that the  
23 ULA is unconstitutional.

24 **SECOND CLAIM FOR RELIEF**

25 **(Violation of Equal Protection – Against Defendants)**

26 94. Plaintiffs re-allege and incorporate herein by this reference each and every  
27 allegation set forth in paragraphs 1 through 93 as though fully set forth herein.  
28

1 95. The ULA also violates the Equal Protection requirements of uniformity and  
2 apportionment under both the United States Constitution and the California Constitution.

3 96. The Court of Appeal has stated: “Principles of equal protection require ‘that  
4 persons who are similarly situated receive like treatment under the law and that statutes  
5 may single out a class for distinctive treatment only if that classification bears a rational  
6 relationship to the purposes of the statute. Thus, if a law provides that one subclass  
7 receives different treatment from another class, it is not enough that persons within that  
8 subclass be treated the same. Rather, there must be some rationality in the separation of  
9 the classes.’” *Kumar v. Superior Court*, 149 Cal. App. 4th 543, 550-551 (2007) (italics  
10 and underlining added).

11 97. In considering whether a tax is consistent with equal protection principles,  
12 “courts will look for a rational basis for the class of persons selected to pay the tax.  
13 Additionally, the classification must bear a reasonable relation to a legitimate  
14 governmental purpose. Arbitrary and capricious classifications are not permitted.  
15 [Citation.] The persons who are to pay the tax must be a ‘reasonably justifiable  
16 subclassification’ of persons; otherwise, ‘the operation of the tax must be such as to place  
17 liability therefor equally on all members of the class.’” *City of Santa Cruz v. Patel*, 155  
18 Cal.App.4th 234, 247 (2007) (underlining added).

19 98. There is no rational basis under the ULA to require the owners of the  
20 \$5,000,001 property sub-class to pay at least \$200,000 (and possibly millions of dollars)  
21 in ULA taxes on a sales transaction while the owners of the \$4,999,999 property sub-class,  
22 and, indeed, all other members of society who do not even own property, pay nothing at  
23 all to accomplish the stated purpose of the ULA (i.e., to reduce the societal problem of  
24 homelessness).

25 99. The ULA taxes impose a huge rate comprising at least \$200,000 on the  
26 owners of the \$5,000,001 property sub-class who sell properties for over \$5,000,000 for  
27 performing the same exact function (transferring property via a written instrument) that it  
28 does for free for all the property owners whose properties sell for \$5,000,000 or less and

1 arbitrarily charges the hundreds of thousands of dollars in ULA taxes, solely based on  
2 whether the sales price is \$5,000,001 or it is less than that amount.

3 100. The cut-off is clearly an arbitrary figure and the consequences of being one  
4 dollar above this cut-off subject the property seller to ULA taxes of hundreds of thousands  
5 of dollars, whereas being one dollar below it, means the seller pays nothing. There is  
6 nothing in between, no graduation, no apportionment, no uniformity amongst either all  
7 property owners in Los Angeles or all taxpayers in Los Angeles, whether they own  
8 property or not. Yet there is no discernible or rational distinction or difference between a  
9 real property that sells for \$5,000,001 and one that sells for \$5,000,000.

10 101. The imposition of the tax on the gross sales proceeds above the arbitrary  
11 \$5,000,000 threshold bears no rational relationship to a taxpayer's "ability to pay" such  
12 tax, nor to the time and costs associated with the city's audits for self-reported transfer  
13 taxes, which are covered, in any case by the Pre-Existing Transfer Tax of general  
14 applicability, which unlike the ULA is (a) apportioned among all property owners, (b)  
15 graduated as to the values of properties, and (c) subtracts from the proceeds of the sale the  
16 amount of existing indebtedness that is assumed by the buyer. The ULA tax, therefore, is  
17 clearly arbitrary and irrational in how it is imposed, and it is, therefore, a violation of the  
18 Equal Protection Clause of the United States Constitution and the California Constitution.

19 102. There is no rationality in separating sellers of properties of \$5,000,001  
20 properties from sellers of properties of, for example, \$4,999,999 properties such that the  
21 former pays \$200,000 to reduce homelessness while the latter pays nothing at all. As the  
22 purpose of the ULA is to reduce homelessness and homelessness is a societal problem,  
23 then, if any property owner should be required to pay a tax to reduce it, all property owners  
24 should be required to do so, in some reasonable apportionment based on the respective  
25 values of their properties. Indeed, all taxpayers, whether property owners or not, in  
26 fairness, should chip in to shoulder the burden of reducing homelessness since it is  
27 everyone's problem not merely the problem of property owners. A property seller of a  
28 \$5,000,001 property has not caused homelessness either at all or to any greater degree than

1 a property seller of a \$4,999,999 property or, indeed, any amount or even to any greater  
2 degree than a person who owns no property at all. There is no rational distinction between  
3 either the causation of homelessness or the responsibility to reduce homelessness between  
4 the \$5,000,001 property sub-class of property owners whose properties sell for more than  
5 \$5,000,000 and the \$4,999,999 property sub-class of property owners whose properties  
6 sell for \$5,000,000 or less.

7 103. In considering whether a tax is consistent with equal protection principles,  
8 courts will look for a rational basis for the class of persons selected to pay. There is no  
9 rational basis to require the \$5,000,001 property sub-class to pay at least \$200,000 in ULA  
10 taxes while the \$4,999,999 property sub-class pays nothing at all. The persons who are to  
11 pay the tax must be a “reasonably justifiable subclassification” of persons; otherwise, “the  
12 operation of the tax must be such as to place liability therefor equally on all members of  
13 the class.” *City of Santa Cruz v. Patel*, 155 Cal. App. 4th 234, 247–248 (2007).

14 104. The ULA demonstrates a conscious failure on the part of its proponents and  
15 the City to exercise a fair and impartial judgment, and resorts to arbitrary methods varying  
16 from those (such as the Pre-Existing Transfer Tax) employed in assessing other property  
17 of like character, resulting in the imposition designedly of an unequal burden upon the  
18 property of the \$5,000,001 property sub-class. The VIP demonstrates that the imposition  
19 of the entire burden of the ULA taxes upon those few owners in the \$5,000,001 property  
20 sub-class, comprising approximately 3% of all property owners, was, by design, an  
21 intentional act of “class warfare” against what the ULA proponents intentionally and  
22 falsely characterized as comprising only “billionaires” and “millionaires.” This resulted  
23 in such a small group of sellers of properties comprising the owners of the \$5,000,001  
24 property sub-class being unfairly saddled with the entirety of the burden of the societal  
25 problem of reducing homelessness.

26 105. The ULA irrationally discriminates against the owners of the \$5,000,001  
27 property sub-class in favor of owners of the \$4,999,999 property sub-class for a legislative  
28 purpose, to reduce homelessness, that is a society wide problem. The varying treatment of

1 the owners of the two sub-classes is so unrelated to the achievement of the purpose of the  
2 ULA, reducing homelessness, that it is irrational and, therefore, invalid because it violates  
3 the equal protection clauses of the United States Constitution and the California  
4 Constitution.

5 **THIRD CLAIM FOR RELIEF**

6 **(Violation of Article 1, Section 10, of the U.S. Constitution – Against Defendants)**

7 106. Plaintiffs re-allege and incorporate herein by this reference each and every  
8 allegation set forth in paragraphs 1 through 105 as though fully set forth herein.

9 107. The ULA is unconstitutional retroactive legislation.

10 108. Article 1, Section 10, of United States Constitution, applicable to the states,  
11 prohibits “ex post facto” laws (i.e., laws that have retroactive effect).

12 109. The ULA does not say that it applies only to properties acquired after its  
13 effective date of April 1, 2023. Rather, it says that it applies to all properties that are sold  
14 on or after April 1, 2023, whenever they may have been acquired. Therefore, in applying  
15 a tax upon the entire value of such property that had accumulated since the property had  
16 been acquired by the seller until the date it was sold after the effective date of the ULA,  
17 the ULA is retroactive legislation.

18 110. Preceding the passage of the ULA, in some cases many years before the  
19 passage of the ULA, Plaintiffs and other owners of the \$5,000,001 property sub-class  
20 reasonably relied, in their formation of contracts for acquisition, financing, leasing,  
21 improvement and ownership of properties in Los Angeles, upon reasonable investment  
22 backed expectations that the laws of the state of California, and particularly its  
23 Constitutional provisions, including, without limitation, Proposition 13, Proposition 128,  
24 Proposition 26 and *Government Code* section 53725, which prohibited the imposition of  
25 *a transaction tax or sales tax on the sale of real property within such City*, (which is  
26 exactly what the ULA is and/or purports to be), would not be impaired by the application  
27 of an ordinance such as the ULA which purports to do exactly that.  
28

1 111. Before the ULA came into existence, perhaps many years before, the owners  
2 of such properties had relied upon the value of such properties without regard to an  
3 unforeseen, indeed, unforeseeable subtraction of 4% or 5.5%, as the case may be, of the  
4 gross value as a ULA tax, in planning their business affairs and reasonable investment  
5 backed expectations such as (a) whether to even buy the property in Los Angeles, (b)  
6 whether to pay monies to improve it, and (c) whether and how much to borrow against it  
7 to either acquire it or improve it. Buyers might have decided to purchase comparable  
8 properties in areas such as Beverly Hills, which are unaffected by the ULA, rather than  
9 the City of Los Angeles which imposes such gross surcharge, had they ever suspected,  
10 before they purchased such properties in the City of Los Angeles, that a law such as the  
11 ULA might come into effect and retroactively impair their investments.

12 112. Lenders also relied upon the realizable value of such properties without  
13 regard to an unforeseen, indeed, unforeseeable subtraction of 4% or 5.5% as the case may  
14 be, in planning their business affairs and reasonable investment backed expectations such  
15 as (a) whether to loan any money against the security of such Property and/or its gross  
16 sales proceeds, (b) at what interest rate to lend any such monies, (c) whether to lend monies  
17 to improve it, (d) how much such lender can lend upon such property with the reasonable  
18 expectation that the borrower may be able to sell it and the gross proceeds of such sale,  
19 after the payment of all taxes, will be sufficient to repay the loan secured by such property,  
20 and (e) what is the risk that the borrower may not be able to repay the loan out of the  
21 proceeds of sale of the property.

22 113. For example, a merchant builder may buy a piece of land upon which to build  
23 a house at a price that will yield him a net profit of 12% of the gross sales proceeds, after  
24 the payment of all costs to acquire, improve and sell such house, but he would not purchase  
25 the land at the same price if his net profit was only 8% or 6.5% due to the application of  
26 the unforeseen ULA taxes.

27 114. All of the builders who purchased land in the City of Los Angeles before the  
28 passage of the ULA have suffered an impairment of the rights that they possessed when

1 they acted to purchase the property. The ULA has increased those builders' liability for  
2 the past conduct of buying such property and paying money to improve the value of the  
3 property, because they will now have to come up with more money to pay off their loans  
4 (i.e., incur additional liabilities to borrow more money), where previously they relied upon  
5 having sufficient net proceeds of sale with which to do so. The ULA also imposes the new  
6 duty of paying the 4.0% or 5.5% ULA taxes upon the sale, which did not previously exist.

7 115. All of the lenders who advanced monies to such builders both calculated the  
8 amounts they were willing to advance and the interest rates they would charge on such  
9 loans based on their risk adjusted expectations that the properties securing their loans  
10 would be able to be sold without regard to a deduction of 4.0% or 5.5% of the gross  
11 proceeds for an unanticipated ULA tax. Indeed, the ULA taxes on the "gross proceeds" of  
12 sale, may prevent such loans from being able to be paid off at all. At the very least, the  
13 loan amounts of these contracts would likely have been reduced and the interest rates  
14 might have been raised to adjust for the increased risk of having less available net proceeds  
15 of sales to secure the loans. Such borrowers and lenders had settled expectations as to the  
16 expected net proceeds of sales. The imposition of the ULA taxes alters the legal  
17 consequences of the past actions of such borrowers and lenders in entering into the  
18 contractual loan transactions. Their pre-existing contractual relations have also been  
19 impaired by the retroactive effect of the ULA taxes.

20 116. Plaintiffs and other owners of the \$5,000,001 property sub-class entered into  
21 loan agreements, long term leases, contracts for improvements to their properties and other  
22 contracts and even selected the locations of their properties based on the reasonable  
23 investment backed expectation that no such transfer tax much less a large transfer tax,  
24 such as the ULA taxes, of 4% or 5.5% of the gross sales proceeds from such a property  
25 would be imposed upon them.

26 117. Lenders also advanced long-term loans based on the security of such  
27 properties and upon the reasonable investment backed expectation that the realizable  
28 values of such properties would not be suddenly and unforeseeably diminished by the

1 imposition of *a transaction tax or sales tax on the sale of real property within such City*,  
2 which, was and is still prohibited by the California Constitution under Proposition 13,  
3 Proposition 128 and Proposition 26, as well as Cal. Government Code Section 53725.

4 118. Borrowers against properties in the \$5,000,001 property sub-class may not  
5 have entered into legal loan agreements with lenders and borrowed specified amounts of  
6 monies on specified terms and lenders may not have lent such monies, in the same amounts  
7 and on the same specified terms such as interest rates and maturity dates, against the  
8 security of properties now covered by the \$5,000,001 property sub-class if they had known  
9 when they entered into such loan contracts, that, sometime after such loans had been made,  
10 the net proceeds of sale from such properties available to repay such loans would be  
11 reduced by 4% or 5.5% of the gross sales proceeds from the sales of such properties.

12 119. Purchasers of income properties make projections as to their eventual net  
13 proceeds of sale in order to determine the purchase prices that they are willing to pay for  
14 particular properties and then enter into purchase and financing contracts accordingly.  
15 Investors and financiers, such as retirement and pension funds, in such purchases, make  
16 similar calculations in determining whether or not to invest and/or what investment return  
17 they are willing to accept for such an investment and they make their contracts based on  
18 such reasonable projections of the net proceeds of sale as well.

19 120. Some property owners raised monies in the public securities markets and  
20 issued securities based on good faith projections to investors of the net sales proceeds to  
21 be expected from their properties without regard to the deduction of the 4.0% or 5.5% of  
22 the gross proceeds of sale that were unforeseeable to them at the time of such projections.  
23 The rights of such investors, including public and private pension and retirement funds,  
24 have been greatly impaired by the retroactive effect of the ULA taxes in that the realizable  
25 value of their investments has been reduced by the future liability for the ULA taxes that  
26 was not anticipated at the time of their investment. The aggregate adverse costs to the  
27 property owners, in the billions of dollars, directly corresponds to the aggregate amount  
28 of money to be raised by the ULA.

1 121. The law on the constitutional prohibition against retroactive legislation is  
2 summarized as follows:

3 In general, the courts disfavor retroactivity. “[C]ongressional  
4 enactments and administrative rules will not be construed to have  
5 retroactive effect unless their language requires this result.”  
6 *Bowen v. Georgetown University Hospital*, 488 U.S. 204, 208, 109  
7 S.Ct. 468, 471, 102 L.Ed.2d 493 (1988). **Fairness concerns**  
8 **dictate that courts must not lightly disrupt settled expectations**  
9 **or alter the legal consequences of past actions.** See *Landgraf v.*  
10 *USI Film Products*, 511 U.S. 244, 265–66, 114 S.Ct. 1483, 1497,  
11 128 L.Ed.2d 229 (1994); *Kaiser Aluminum & Chem. Corp. v.*  
12 *Bonjorno*, 494 U.S. 827, 855, 110 S.Ct. 1570, 1586, 108 L.Ed.2d  
13 842 (1990) (Scalia, J., concurring) (“**The principle that the legal**  
14 **effect of conduct should ordinarily be assessed under the law**  
15 **that existed when the conduct took place has timeless and**  
16 **universal human appeal.**”)

17 ...

18 **Cases involving settled contract and property rights, for**  
19 **example, require predictability and stability and are generally**  
20 **inappropriate candidates for statutory retroactivity. *Id.* at**  
21 **270–72, 114 S.Ct. at 1500. Similarly, the courts presumptively**  
22 **should not apply “statutes affecting substantive rights,**  
23 **liabilities, or duties to conduct arising before their**  
24 **enactment.**” *Id.* at 278, 114 S.Ct. at 1504. Accordingly, the Court  
25 provided a framework for approaching retroactivity questions:

26 When a case implicates a federal statute enacted after the events  
27 in suit, the court’s **first task is to determine whether Congress**  
28 **has expressly prescribed the statute’s proper reach. If**

1 Congress has done so, of course, there is no need to resort to  
2 judicial default rules. **When, however, the statute contains no**  
3 **such express command, the court must determine whether the**  
4 **new statute would have retroactive effect, i.e., whether it**  
5 **would impair rights a party possessed when he acted, increase**  
6 **a party's liability for past conduct, or impose new duties with**  
7 **respect to transactions already completed.** If the statute would  
8 operate retroactively, our traditional presumption teaches that it  
9 does not govern absent clear congressional intent favoring such a  
10 result.

11 *Covey v. Hollydale Mobilehome Ests.*, 116 F. 3d 830, 835 (9th Cir.), *opinion amended on*  
12 *denial of reh'g*, 125 F. 3d 1281 (9th Cir. 1997).

13 122. The ULA clearly impairs the rights which the property owners of the  
14 \$5,000,001 property sub-class (and their lenders) possessed when they entered into the  
15 contracts that they did prior to the passage of the ULA. The ULA unconstitutionally  
16 impairs existing contracts and is, therefore, invalid.

17 **FOURTH CLAIM FOR RELIEF**

18 **(Violation of Article XIII A, Section 4, of California Constitution – Against**  
19 **Defendants)**

20 123. Plaintiffs re-allege and incorporate herein by this reference each and every  
21 allegation set forth in paragraphs 1 through 122 as though fully set forth herein.

22 124. The ULA is invalid because it violates Article XIII A, Section 4, of the  
23 California Constitution.

24 125. Article XIII A was added to the California Constitution by an initiative  
25 measure known as Proposition 13 on June 6, 1978. Section 4 imposes limits on the ability  
26 of local governmental entities to enact new taxes. It expressly prohibits a transaction tax  
27 or sales tax on the sale of real property within such City, which is exactly what the ULA  
28 is and/or purports to be.

1 126. As noted by the California Supreme Court in *Huntington Park*  
2 *Redevelopment Agency v. Martin*, 38 Cal. 3d 100, 105 (1985):

3 Article XIII A of the Constitution is the product of Proposition  
4 13, a 1978 initiative aimed at reducing property taxes. Section 4  
5 of that article provides that ‘*Cities*, Counties and special districts,  
6 by a two-thirds vote of the qualified electors of such district, *may*  
7 *impose special taxes* on such district ....’ Although this section  
8 appears to be a grant of power allowing local entities to enact  
9 special taxes, it actually has the effect of limiting their enactment  
10 (*City and County of San Francisco v. Farrell* (1982) 32 Cal.3d  
11 47, 53, 184 Cal.Rptr. 713, 648 P.2d 935). While a majority of the  
12 voters may favor a proposal, they are likely to be thwarted by the  
13 requirement of attaining a two-thirds vote. The section is part of  
14 the ‘interlocking package’ of sections in article XIII A, ‘deemed  
15 necessary by the initiative’s framers to assure effective real  
16 property tax relief.’ (*Amador Valley Joint Union High Sch. Dist.*  
17 *v. State Bd. of Equalization* (1978) 22 Cal.3d 208, 231, 149  
18 Cal.Rptr. 239, 583 P.2d 1281.) *The purpose of section 4 is to*  
19 *prevent the government from recouping its losses from decreased*  
20 *property taxes by imposing or increasing other taxes. (Ibid.).*

21 (Underlining added.)

22 127. Article XIII A provides, in pertinent part:

23 Cities, Counties and special districts, by a two-thirds vote of the  
24 qualified electors of such district, may impose special taxes on  
25 such district, *except* ad valorem taxes on real property or a  
26 *transaction tax or sales tax on the sale of real property* within  
27 such City, County or special district.

28 (Italics and underlining added.)

1           128. The Court of Appeal in *Cohn v. City of Oakland*, 223 Cal. App. 3d 261, 263  
2 (1990), interpreted the “except” clause, at issue here, as prohibiting the imposition of ad  
3 valorem real property taxes and real property sale or transfer taxes which are special  
4 taxes.

5           129. The California Supreme Court defined “special taxes” in Section 4 to mean  
6 taxes levied for a specific purpose rather than a levy placed in the general fund to be  
7 utilized for general governmental purposes. *See City and County of San Francisco v.*  
8 *Farrell*, 32 Cal. 3d 47, 57 (1982), *superseded on other grounds by Proposition 62, Borikas*  
9 *v. Alameda Unified School Dist.* (2013) 214 Cal. App. 4th 135 (“We [the California  
10 Supreme Court] have defined ‘special taxes’ in section 4 to mean taxes levied for a specific  
11 purpose rather than a levy placed in the general fund to be utilized for general  
12 governmental purposes.”).

13           130. The ULA is a real property sale or transfer tax which is a special tax because  
14 it is enacted for the special purpose of reducing homelessness and, as such, the taxes must  
15 comply with the California Constitution, including, without limitation, Propositions 13,  
16 26 and/or 218, and/or other applicable law. Cal. Gov. Code Section 53725, enacted to  
17 implement and clarify Proposition 13, provides that: No local government ... may impose  
18 any transaction tax or sales tax on the sale of real property within the city. The ULA taxes  
19 are prohibited by each of such propositions from being imposed by a local government  
20 including the City of Los Angeles.

21           131. However, the City has intentionally disregarded the prohibition in  
22 Proposition 13 of imposing a tax on the sale of real property.

23           132. In the alternative, or in addition, the ULA taxes violate Propositions 218 and  
24 26.

25           133. Proposition 218 (also known as the “Right to Vote on Taxes Act”) was passed  
26 by California voters in 1996. Among other things, Proposition 218 states that “local  
27 governments have subjected taxpayers to excessive tax, assessment, fee and charge  
28 increases that not only frustrate the purposes of voter approval for tax increases, but also

1 threaten the economic security of all Californians and the California economy itself. This  
2 measure protects taxpayers by limiting the methods by which local governments exact  
3 revenue from taxpayers without their consent.” It further states that the proposition should  
4 be liberally construed “to effectuate its purposes of limiting local government revenue and  
5 enhancing taxpayer consent.” In 2010, Proposition 26 was enacted to provide a more  
6 specific definition of state and local “taxes.”

7 134. However, under any circumstances, and regardless of local voter approval,  
8 local districts may not impose sales taxes on transfer of real property. (See Cal. Const. art.  
9 XIII A, § 4.)

10 135. Therefore, in the alternative and/or in addition, the City has violated, and  
11 continues to violate, Propositions 218 and 26 because the ULA taxes violate Proposition  
12 13.

13 136. In *Fielder, supra*, 17 Cal. Rptr. 2d at 633, the Court of Appeal adopted the  
14 holding in *Cohn v. City of Oakland*, which held that the enactment of or increase in a  
15 transfer tax is not prohibited by article XIII A when the transfer tax is a general, rather  
16 than a specific, tax.

17 137. By the plain wording of the constitutional provision as well as the doctrine  
18 of *expressio unius est exclusio alterius*, when, as here, the transfer tax is a special tax, it  
19 is prohibited by Article XIII A. Therefore, the ULA is prohibited by said Article XIII A,  
20 Section 4.

21 138. Charter cities, such as Los Angeles, have been held by the Court of Appeal  
22 to be subject to legislation enacted to implement Proposition 13. *See City of Rancho*  
23 *Cucamonga v. Mackzum*, 228 Cal. App. 3d 929 (1991), *rev. granted and opinion*  
24 *superseded by City of Rancho Cucamonga v. Mackzum*, 812 P.2d 153 (Cal. 1991),  
25 *dismissed, remanded and publication ordered, City of Rancho Cucamonga v. Mackzum*,  
26 816 P. 2d 891 (Cal. 1991); *John Tennant Memorial Homes, Inc. v. City of Pacific Grove*,  
27 27 Cal. App. 3d 372 (1970) (striking down a local tax on payments by occupants of  
28 retirement homes on the ground that it violated a state statute implementing tax

1 exemptions for charitable institutions); *Century Plaza Hotel Co. v. City of Los Angeles*, 7  
2 Cal. App. 3d 616 (1970) (invalidated a local tax on the purchase of alcoholic beverages  
3 on the ground that it conflicted with state regulation and taxation of alcoholic beverages).

4 139. The Court of Appeal has also held that the purpose of Proposition 13 itself  
5 was to achieve statewide control over escalating local property tax rates and was therefore  
6 a grant of authority to the Legislature to act in an area of statewide concern, and, therefore,  
7 controlled over the home rule taxing power of charter cities, such as the City of Los  
8 Angeles:

9 In *City of Rancho Cucamonga v. Mackzum*, supra, 228  
10 Cal.App.3d 929, 46 Cal.Rptr.2d 448, the court recognized that  
11 “the purpose of Proposition 13 itself was to achieve statewide  
12 control over escalating local property tax rates.” (Id. at p. 945, 46  
13 Cal.Rptr.2d 448.) The court determined that Proposition 13 was  
14 a grant of authority to the Legislature to act in an area of  
15 statewide concern, and therefore, controlled over the home rule  
16 taxing power of charter cities. (228 Cal.App.3d at p. 945, 46  
17 Cal.Rptr.2d 448.) The court concluded that although the home  
18 rule power was limited, it was not repealed.

19 *County of Sonoma v. Commission on State Mandates*, 84 Cal. App. 4th 1264, 1293 (2000),  
20 as modified on denial of reh’g (Dec. 19, 2000).

21 140. The Property owners in the City of Los Angeles who are subject to the ULA  
22 are also subject to taxation by the *County* of Los Angeles and, as set forth above, the *State*  
23 of California (as well as the United States) for matters of countywide and statewide (and  
24 national) concern.

25 141. Such property owners have only a finite amount of resources to tax. If, as  
26 here, the ULA taxes such property owners on the “gross sales proceeds” of their properties,  
27 without regard to whether these property owners are even receiving any *net* proceeds and  
28 can afford to pay such ULA taxes, the ULA is, in violation of Proposition 13 (and

1 Government Code Section 53725), illegally usurping, essentially “hi-jacking,” potentially  
2 available taxable resources of the County of Los Angeles and the State of California to tax  
3 the same individuals for the same homelessness which is of both countywide and state  
4 concern.

5 142. As noted by the California Supreme Court in *California Cannabis Coalition*  
6 *v. City of Upland*, 3 Cal. 5th 924, 942 (2017), *as modified on denial of reh’g (Nov. 1,*  
7 *2017)*: “When a local government lacks authority to legislate in an area, perhaps because  
8 the state has occupied the field (e.g., *American Financial Services Assn. v. City of*  
9 *Oakland* (2005) 34 Cal. 4th 1239, 1252, 23 Cal.Rptr.3d 453, 104 P.3d 813 [predatory  
10 lending practices] ), that limitation also applies to the people’s local initiative power.  
11 (DeVita, at p. 776, 38 Cal.Rptr.2d 699, 889 P.2d 1019.)”

12 143. Because the reduction of homelessness is unquestionably a subject of  
13 statewide concern, as set forth in *Fielder, supra*, 14 Cal. App. 4th at 143, the ULA, a  
14 charter city tax measure, must yield to it and the City, whether by city council action or  
15 voters’ initiative, has no power to enact it because to do so lies beyond the City’s  
16 constitutional sovereign power over municipal affairs.

17 144. As noted by the *Fielder* court:

18 Since charter cities such as defendant have sovereign power over  
19 municipal affairs (Cal.Const., art. XI, § 5), subdivision (a) of  
20 Government Code section 53725 does not necessarily restrict the  
21 power of a charter city to impose a transaction tax such as that  
22 enacted by ordinance No. 166976. The Legislature may preempt  
23 such conflicting charter city legislation only where the matter  
24 addressed is one of such statewide concern as to warrant the  
25 Legislature’s action. (*California Fed. Savings & Loan Assn. v.*  
26 *City of Los Angeles* (1991) 54 Cal.3d 1, 7, 283 Cal.Rptr. 569,  
27 812 P.2d 916.) “In the event of a true conflict between a state  
28 statute reasonably tailored to the resolution of a subject of

1 statewide concern and a charter city tax measure, the latter ceases  
2 to be a ‘municipal affair’ to the extent of the conflict and must  
3 yield.”

4 ...

5 When a court invalidates a charter city measure in favor of a  
6 conflicting state statute, the result does not necessarily rest on the  
7 conclusion that the subject matter of the former is not appropriate  
8 for municipal regulation. It means, rather, that under the  
9 historical circumstances presented, the state has a more  
10 substantial interest in the subject than the charter city.” (Id. at pp.  
11 17-18, 283 Cal.Rptr. 569, 812 P.2d 916.) Thus, “the hinge of the  
12 decision is the identification of a convincing basis for legislative  
13 action originating in extramunicipal concerns, one justifying  
14 legislative suppression based on sensible, pragmatic  
15 considerations.” (Id. at p. 18, 283 Cal.Rptr. 569, 812 P.2d 916.)  
16 *Id.* at 143-144.

17 145. As noted by the California Supreme Court: “Although municipal taxation is  
18 a ‘municipal affair’ within the meaning of article XI, section 5(a), in that it is a necessary  
19 and appropriate power of municipal government, aspects of local taxation may under some  
20 circumstances acquire a ‘supramunicipal’ dimension, transforming an otherwise  
21 intramural affair into a matter of statewide concern warranting legislative attention.”  
22 *California Fed. Savings & Loan Assn. v. City of Los Angeles*, 54 Cal. 3d 1, 7 (1991).

23 146. Even though municipal taxation is a “municipal affair” within the meaning  
24 of Article XI, Section 5(a), in that it is a necessary and appropriate power of municipal  
25 government, the aspect of such local taxation in the ULA, which is applied to the reduction  
26 of homelessness, which is a matter of statewide concern, as well as the aspect of  
27 (retroactive) impairment of the security of loans issued, and/or insured and/or guaranteed  
28 by federally chartered lending institutions and federal agencies and/or federally sponsored

1 agencies (such as Freddie Mac, Fannie Mae, FHA and the SBA) that operate throughout  
2 the state of California as well as throughout the entire United States, acquire a  
3 “supramunicipal” dimension, transforming an otherwise intramural affair into a matter of  
4 statewide concern warranting legislative attention. A reasonable assessment of the facts  
5 on an *ad hoc* inquiry leads to the conclusion that reducing homelessness and the  
6 (retroactive) impairment of the security of loans made and/or guaranteed and/or insured  
7 by federally chartered banks, federal agencies and federally sponsored agencies, are  
8 activities of statewide (indeed, nationwide) concern and not merely of municipal concern  
9 to the City of Los Angeles.

10 147. The Court of Appeal has stated that:

11 The determination of whether an activity is a municipal affair or  
12 one of statewide concern “is an *ad hoc* inquiry; ... ‘the  
13 constitutional concept of municipal affairs is not a fixed or static  
14 quantity.’” Rather, it poses a question which “‘must be answered  
15 in light of the facts and circumstances surrounding each case.’”  
16 (California Fed. Savings & Loan Assn. v. City of Los Angeles,  
17 *supra*, 54 Cal.3d at p. 16, 283 Cal.Rptr. 569, 812 P.2d 916.)  
18 Initially, “a court asked to resolve a putative conflict between a  
19 state statute and a charter city measure ... must satisfy itself that  
20 the case presents an actual conflict between the two.” (Ibid.) That  
21 element is present here; there is a clear, unmistakable conflict  
22 between subdivision (a) of Government Code section 53725 and  
23 ordinance No. 166976. Hence, “... the question of statewide  
24 concern is [a] bedrock inquiry through which the conflict  
25 between state and local interests is adjusted.” (54 Cal.3d at p. 17,  
26 283 Cal.Rptr. 569, 812 P.2d 916). If the subject is not one of  
27 statewide concern, the charter city measure lies “‘beyond the  
28 reach of legislative enactment.’”

1 *Fielder, supra*, 14 Cal. App. 4th at 143.

2 148. The small group of owners of the \$5,000,001 property sub-class in Los  
3 Angeles cannot, in any fairness, be expected to shoulder the tax burden for the societal  
4 problems of cities, states and even countries outside of the City of Los Angeles.

5 149. The values of such properties of the \$5,000,001 property sub-class can  
6 reasonably be expected to drop because they are unfairly and discriminatorily burdened  
7 with the costs of essentially reducing the world's homelessness problem while property  
8 owners of properties equivalent to those of the \$5,000,001 property sub-class with the sole  
9 exception that they are located in neighboring cities, such as Beverly Hills, will benefit  
10 from the ULA and see their property values correspondingly increase because they are not  
11 so encumbered by such an enormous burden.

12 150. Unlike the situation in *Fielder*, the burden of the tax rests on more than just  
13 the City's "citizens and taxpayers and those doing business within its limits", because, for  
14 example, the ULA impairs the security and thereby devalues the loans of, inter alia,  
15 federally regulated lenders, federal agencies and federally sponsored agencies, who do  
16 business throughout the United States, such as Freddie Mac, Fannie Mae, FHA and the  
17 SBA, who have issued, and/or insured, and/or guaranteed loans against the \$5,000,001  
18 property class. The revenues from the tax will serve many persons coming from outside  
19 of the City of Los Angeles who will be consuming such services as well as the neighboring  
20 cities whose homelessness will be reduced by migration of some of their homeless  
21 population to the City of Los Angeles to receive the ULA's benefits.

22 151. The Court of Appeal has stated in reference to determining if a matter is of  
23 statewide concern:

24 It means, rather, that under the historical circumstances  
25 presented, the state has a more substantial interest in the subject  
26 than the charter city." (*Id.* at pp. 17-18, 283 Cal.Rptr. 569, 812  
27 P.2d 916.) Thus, "the hinge of the decision is the identification  
28 of a convincing basis for legislative action originating in

1 extramunicipal concerns, one justifying legislative suppression  
2 based on sensible, pragmatic considerations.” (*Id.* at p. 18, 283  
3 Cal.Rptr. 569, 812 P.2d 916.)

4 *Fielder, supra*, 14 Cal. App. 4th at 144.

5 152. Under the historical circumstances presented, the State of California has a  
6 more substantial interest in the subject of homelessness than does the City of Los Angeles.  
7 Unlike the facts in *Fielder*, the homelessness which the ULA seeks to address is not  
8 “confined in operation to the City of Los Angeles and affect[s]” far more persons than  
9 merely the City of Los Angeles’ “citizens and taxpayers and those doing business within  
10 its limits.” *Id.* at 146. Homelessness originates in extramunicipal concerns rather than  
11 merely concerns within the City of Los Angeles itself particularly because the homeless  
12 come to (and leave) the City of Los Angeles from essentially everywhere, including many  
13 places outside of Los Angeles, be it from neighboring cities, neighboring counties, other  
14 states or other countries. Additionally, the (retroactive) impairment of the security of loans  
15 and the devaluation of such loans issued and/or guaranteed and/or insured by federally  
16 regulated banks, federal agencies and federally sponsored agencies, are activities of  
17 statewide (indeed, nationwide) concern and not merely of municipal concern to the City  
18 of Los Angeles (as set forth in *California Federal* (*supra*)).

19 153. Based on the foregoing, the ULA is unconstitutional and invalid because it  
20 violates Article XIII A, Section 4, of the California Constitution.

21 **FIFTH CLAIM FOR RELIEF**

22 **(Violation of *Cal. Government Code* Section 53725 – Against Defendants)**

23 154. Plaintiffs re-allege and incorporate herein by this reference each and every  
24 allegation set forth in paragraphs 1 through 153 as though fully set forth herein.

25 155. The ULA is invalid because it violates *Cal. Government Code* section 53725,  
26 and the reduction of homelessness is a statewide concern as is the (retroactive) impairment  
27 of the security of real estate loans issued and/or insured and/or guaranteed by federally  
28 chartered lending institutions, federal agencies and/or federally sponsored agencies.

1 156. *Cal. Government Code* section 53725 states: “Except as permitted in Section  
2 1 of Article XIII A of the California Constitution, no local government ... may impose any  
3 ad valorem taxes on real property. No local government ... may impose any transaction  
4 tax or sales tax on the sale of real property within the city, county or district.” (Italics and  
5 underlining added.)

6 157. *Cal. Government Code* section 53729 states: “This Article may only be  
7 amended by vote of the electorate of the State of California.”

8 158. *Cal. Government Code* section 53730 states: “If any provision of this Article,  
9 or the application thereof to any person, organization, local government, district, or  
10 circumstance is held invalid or unconstitutional, the provision to other persons,  
11 organizations, local governments, districts, or circumstances shall not be affected thereby  
12 but shall remain in full force and effect.”

13 159. As set forth above, the stated purpose of the ULA is to reduce homelessness.

14 160. The California Supreme Court in *Westbrook v. Mihaly*, 2 Cal. 3d 765, 776  
15 (1970), *vacated on other grounds*, *Mihaly v. Westbrook*, 403 U.S. 915 (1971), stated that  
16 the requirement of a supermajority vote in a property tax matter “*may have been designed*  
17 *to protect property owners from the unrestrained desires of the landless for publicly*  
18 *financed projects.*” The supermajority vote in Proposition 13, indeed, the entire  
19 prohibition of new transfer taxes by local governments, is exactly intended to protect the  
20 few sellers of properties that sell for more than \$5,000,000 from the unrestrained desires  
21 of the proponents of the ULA, who, by their own admission, will not be subject to the tax  
22 because they do not own such properties but desire it for publicly financed projects, i.e. to  
23 reduce homelessness.

24 161. The ULA tax is invalid because it violates *Cal. Government Code* Section  
25 53725.

**SIXTH CLAIM FOR RELIEF**

**(Governmental Taking Without Compensation – Against Defendants)**

162. Plaintiffs re-allege and incorporate herein by this reference each and every allegation set forth in paragraphs 1 through 161 as though fully set forth herein.

163. In addition or in the alternative, the ULA is a disguised exaction which constitutes a taking under the Fifth Amendment of the United States Constitution and the California Constitution without just compensation, which neither bears any essential nexus with the purpose of the ULA, to reduce homelessness, nor any reasonable proportion to the creation of homelessness by the sale of a property for more than \$5,000,000 or the registration of a deed of sale.

164. While the ULA labels the charges it imposes upon the \$5,000,001 property sub-class as a “transfer tax,” in the alternative and, in reality, it is an unconstitutional monetary exaction. Unlike the ULA, the longstanding Pre-Existing Transfer Tax, which exists and has existed prior to the ULA, is a law of general applicability because it applies to each and every property sold in Los Angeles.

165. The ULA, on the other hand, by admission of its own proponents, applies only to a relatively few specified properties (i.e., those 2 to 3% of all properties sold in the City of Los Angeles), whose gross sales price exceeds \$5,000,000.

166. The proponents of the ULA even boast that the ULA is not of general applicability, but, in fact, only applies to “millionaires and billionaires.” “It would have applied to only 3% of all real estate sales in 2019 (those selling for more than \$5 million). Let’s be clear: Only people selling real estate for more than \$5 million will pay this tax. No one else will.” (VIP, p. 32.)

167. The Voter Information Pamphlet further states that of the many thousands of sales of homes and condos in Los Angeles: “... this tax would have applied to only 2.5% of home and condo sales in 2021-2022. The millionaires and billionaires cashing in can afford to pay their taxes.” (VIP, p. 39.)

1 168. Upon information and belief, as of December 15, 2022, of the approximately  
2 5,498 single-family homes that had traded hands in Los Angeles in 2022, only 229 had  
3 sold for \$5 million or more, about 4.17%.

4 169. Upon information and belief, of the 2,526 condominium sales in Los Angeles  
5 that had taken place to that date in 2022 only 22 had sold for \$5 million or more, about  
6 0.87%.

7 170. As such, the ULA is not a law of general applicability, and, indeed, its  
8 proponents proudly boast that it *only applies* to approximately 3% of property owners.

9 171. Rather, the ULA is very intentionally targeted to be limited to an extremely  
10 few, perhaps a few hundred identifiable persons, whom the proponents of the ULA falsely  
11 and deceptively characterized as all being “millionaires or billionaires.”

12 **UNLIKE A TAX OF GENERAL APPLICABILITY AND MORE**  
13 **CHARACTERISTIC OF A MONETARY EXACTION, THE ULA RESERVES**  
14 **DISCRETION IN THE CITY WHETHER OR NOT TO IMPOSE THE ULA TAX**

15 172. Unlike a tax of general applicability which applies across the board to all  
16 taxpayers, the ULA reserves a discretion to the City to dispense exemptions to the ULA  
17 tax to favored land transferees, who, for example, demonstrate to the satisfaction of the  
18 Los Angeles Housing Department, or its successor agency, according to a procedure and  
19 criteria that does not yet even exist, and is, therefore, as of yet undefined, that the  
20 transferees of such properties or one of their partners or members can demonstrate a  
21 history of affordable housing development and/or affordable housing property  
22 management experience.

23 173. Thus, not only is the imposition of the ULA discretionary based upon the  
24 decision of City bureaucracy, but there are no defined criteria upon which such  
25 discretion is even to be exercised. For example, Section 21.9.14 provides the City with  
26 discretion to exempt a sales transaction (i.e. waive the ULA tax), upon certain conditions:

27 SEC. 21.9.14. EXEMPTION—QUALIFIED AFFORDABLE  
28 HOUSING ORGANIZATION. The Homelessness and Housing

1 Solutions Tax imposed by Subsection (b) of Section 21.9.2 of  
2 this Code shall not apply with respect to any deed, instrument or  
3 writing by which any lands, tenements, or other realty sold within  
4 the City of Los Angeles shall be granted, assigned, transferred or  
5 otherwise conveyed to, or vested in, a purchaser or purchasers,  
6 or any other person or persons, by his or their direction if such  
7 transferee is: (1) a non-profit entity within Internal Revenue  
8 Code Section 501(c)(3); (2) a Community Land Trust, as defined  
9 in Section 22.618.2 of the Los Angeles Administrative Code; (3)  
10 a Limited-Equity Housing Cooperative, as defined by California  
11 Civil Code Section 817; or (4) a limited partnership or limited  
12 liability company in which only bona fide nonprofit  
13 corporations, Community Land Trusts, and/or Limited-Equity  
14 Housing Cooperatives are the general partners or managing  
15 members. To qualify for an exemption under this section, the  
16 transferees or one of its partners or members must demonstrate  
17 a history of affordable housing development and/or affordable  
18 housing property management experience, as determined by the  
19 Los Angeles Housing Department, or its successor agency,  
20 according to a procedure that will be promulgated by the Los  
21 Angeles Housing Department, or its successor agency.

22 (Emphasis added.)

23 174. The ULA provides under Section 21.9.16 that the City shall have the power  
24 to issue further discretionary exemptions from the ULA tax, without further voter  
25 approval, which means the City maintains yet other discretionary grounds to impose  
26 conditions on the exaction or exemption from the exaction of the ULA “tax”:

27 SEC. 21.9.16. ADDITIONAL EXEMPTIONS—CITY  
28 COUNCIL APPROVAL. The People of the City of Los Angeles

1 authorize the City Council to enact ordinances, without further  
2 voter approval, to exempt from the Homelessness and Housing  
3 Solutions Tax imposed by Subsection (b) of Section 21.9.2 of  
4 this article property acquired by non-profit organizations to  
5 produce income-restricted affordable housing, as the Council  
6 may define those terms consistently with the purposes set forth  
7 in Article 9 of Chapter 24 of Division 22 of the Los Angeles  
8 Administrative Code.

9 175. Without the registration of the deed of transfer, the transferor cannot rid  
10 himself of encumbrances of record on his property and the transferee cannot effectively  
11 make use of the property (e.g., obtain mortgage financing, obtain building permits, title  
12 insurance, etc.).

13 176. A seller of a property in the \$5,000,001 property sub-class cannot register a  
14 deed for the sale of his property unless he either pays the ULA tax or satisfies the City,  
15 according to undefined standards, that his transferee meets certain criteria. The City,  
16 therefore, maintains a quasi-judicial discretion to either charge the seller the tax as a  
17 condition to registering the deed or to waive it depending upon whether the seller has  
18 satisfied conditions imposed by the City, under, for example, Sections 21.9.14 or 21.9.16.  
19 of the ULA.

20 177. When, as in the ULA, the government conditions the grant of a benefit such  
21 as the registration of a deed in the recorder's office upon the giving up a property right,  
22 such as, in the ULA of 4% or 5.50% of the gross proceeds of sale, the fee becomes an  
23 *exaction* rather than a tax and it becomes subject to the exactions analysis to a legislative  
24 ordinance, including the stricter scrutiny and the *Nollan* and *Dolan* constitutional  
25 requirements of essential nexus and rough proportionality.

26 178. The Ninth Circuit Court of Appeal stated that any government action that  
27 conditionally grants a benefit, such as a "registration" (i.e., of a deed), can supply the basis  
28 for an exaction claim:

1 In Cedar Point Nursery, the Court highlighted that “[t]he  
2 **essential question is not ... whether the government action at**  
3 **issue comes garbed as regulation (or statute, or ordinance, or**  
4 **miscellaneous decree).” 141 S. Ct. at 2072. Yet the Court still  
5 limited the exactions context to “[w]hen the government  
6 conditions the grant of a benefit such as a permit, license, or  
7 **registration**” on giving up a property right. Id. at 2079. Thus, the  
8 Supreme Court has suggested that any government action,  
9 including administrative and legislative, **that conditionally**  
10 **grants a benefit, such as a permit, can supply the basis for an**  
11 **exaction claim rather than a basic takings claim.** See id. at  
12 2072; see, e.g., Com. Builders of N. Cal. , 941 F.2d at 873  
13 (applying exactions analysis to legislative ordinance imposing a  
14 fee to finance low-income housing in connection with the  
15 issuance of permits for nonresidential development).**

16 *Ballinger v. City of Oakland*, 24 F. 4th 1287 (9th Cir.), cert. denied sub nom. *Ballinger v.*  
17 *City of Oakland, California*, 142 S. Ct. 2777, 213 L. Ed. 2d 1015 (2022) (emphasis added).

18 179. Under the ULA, the City reserves the discretion to condition the registration  
19 of a deed upon the payment of a 4% or 5.5% transfer tax, or to exempt such registration  
20 based upon a quasi-judicial, and not ministerial, individual discretionary determination as  
21 to the character of the purchaser of the property.

22 180. The California Supreme Court has stated: “When such exactions are  
23 imposed—as in this case—**neither generally nor ministerially, but on an individual and**  
24 **discretionary basis, we conclude that the heightened standard of judicial scrutiny of Nollan**  
25 **and Dolan is triggered.” *Ehrlich v. City of Culver City*, 12 Cal. 4th 854, 876 (1996), cert.  
26 *denied*, 519 U.S. 929 (underlining added).**

27 181. The City’s exercise of its discretion to impose or waive the ULA tax does not  
28 depend on the wording it uses in its conditions. It is immaterial whether a government

1 order states that the ULA exemption is “approved if” the City’s conditions are met as  
2 opposed to that the ULA exemption is “denied unless” the conditions are met. *See Koontz*  
3 *v. St. Johns River Water Management Dist.*, 570 U.S. 595, 607 (2013) (“The government  
4 cannot sidestep constitutional protections merely by rephrasing its decision from ‘only if’  
5 to ‘not unless[.]’ ... To do so here would effectively render *Nollan* and *Dolan* a dead  
6 letter.”).

7 182. In the ULA, because the City maintains the discretion, on an individual, not  
8 ministerial basis, to either impose the ULA “tax” or waive it by imposing any conditions  
9 upon the registration of the deed where the property falls within the \$5,000,001 property  
10 sub-class, it is a monetary exaction and not a tax.

11 183. The ULA “tax” is really a disguised, discretionary land use monetary  
12 exaction, imposed on only a very few specific property owners in respect to particular and  
13 identified parcels of land, rather than a tax of general application to all property owners  
14 within the City of Los Angeles. Monetary exactions are subject to the nexus and rough  
15 proportionality requirements of *Nollan* and *Dolan*. The United States Supreme Court  
16 stated:

17 For that reason and those that follow, we reject respondent’s  
18 argument and hold that so-called **“monetary exactions” must**  
19 **satisfy the nexus and rough proportionality requirements of**  
20 ***Nollan and Dolan***.

21 *Koontz, supra*, 570 U.S. at 612 (emphasis added).

22 184. The ULA, therefore, falls within the stricter scrutiny and reasonable nexus  
23 and rough proportionality requirements of *Nollan* and *Dolan*.

24 185. There is no nexus, reasonable or otherwise, between (a) the registration of a  
25 deed of transfer of title for a property in the \$5,000,001 property sub-class and (b)  
26 causation of homelessness in the City of Los Angeles.  
27  
28

1 186. There is no nexus, reasonable or otherwise, between the sale of a property in  
2 Los Angeles for more than \$5,000,000 and either the causation or reduction of  
3 homelessness in the City of Los Angeles.

4 187. There is no rough proportionality or, indeed, any proportionality, in the true  
5 cost of registering a deed for a property in the \$5,000,001 property sub-class and the  
6 minimum exaction of \$200,000 for registering such deed.

7 188. There is no rough proportionality between the causation or reduction of  
8 homelessness in imposing an exaction of \$200,000 for the sale of a property for  
9 \$5,000,001, while there would be zero (\$0) exaction for the sale of a property for  
10 \$5,000,000.

11 189. The ULA “tax” is, therefore, an unconstitutional taking under the United  
12 States Constitution and the California Constitution.

13 **SEVENTH CLAIM FOR RELIEF**

14 **(Governmental Taking Without Compensation – Against Defendants)**

15 190. Plaintiffs re-allege and incorporate herein by this reference each and every  
16 allegation set forth in paragraphs 1 through 189 as though fully set forth herein.

17 191. In addition or in the alternative, the ULA violates the Fifth Amendment of  
18 the United States Constitution and the California Constitution against takings without just  
19 compensation as a **special assessment** because it lacks both an essential nexus to the  
20 creation or reduction of homelessness and lacks any rough proportionality to the creation  
21 of homelessness by the sale of either a property for more than \$5,000,000 or the  
22 registration of a deed for such sale.

23 192. A special assessment may fund the construction of a local public  
24 improvement. *See Inglewood v. County of Los Angeles*, 207 Cal. 697, 702 (1929); *Taylor*  
25 *v. Palmer*, 31 Cal. 241, 254-256 (1866); *County of Placer v. Corin*, 113 Cal. App. 3d 443,  
26 450 (1980); *Solvang Mun. Improvement Dist. v. Board of Supervisors*, 112 Cal. App. 3d  
27 545, 552 (1980); *County of San Bernardino v. Flournoy*, 45 Cal. App. 3d 48, 51-52 (1975);  
28 *Harrison v. Board of Supervisors*, 44 Cal. App. 3d 852, 856 (1975), *superseded on other*

1 *grounds by Proposition 218, Silicon Valley Taxpayers Assn. v. Santa Clara County Open*  
2 *Space Authority*, 44 Cal. 4th 431 (2008); *Northwestern Mut. Life Ins. Co. v. State Bd. of*  
3 *Equalization*, 73 Cal. App. 2d 548, 551-552 (1946).

4 193. The Court of Appeal has stated that special assessments and ad valorem taxes  
5 overlap to some extent:

6 In practical application, the two types of taxation, general ad  
7 valorem taxes and special assessments, to some extent overlap,  
8 and we cannot always differentiate between them with precision.  
9 **A tax to pay the cost of a particular improvement may be**  
10 **crafted as a special assessment levied against particular real**  
11 **property within a local district on the theory that this**  
12 **property is the primary beneficiary of the improvement, or**  
13 **it may be structured as a general ad valorem tax levied on**  
14 **property in a larger area on the theory that all property**  
15 **within the larger area benefits to some extent from the**  
16 **improvement.** Such variegated treatment may be seen in the  
17 projects of water districts, flood control districts, sewer districts,  
18 irrigation districts, and similar public entities, where the benefit  
19 of the improvement to particular property is sometimes thought  
20 to [112 Cal.App.3d 554] outweigh its benefit to property in the  
21 larger area, and sometimes not. (Los Angeles County Flood  
22 Control Dist. v. Hamilton (1917) 177 Cal. 119, 124-126, 169 P.  
23 1028; Roberts v. City of Los Angeles (1936) 7 Cal.2d 477, 491,  
24 61 P.2d 323; Harrison v. Board of Supervisors (1975) 44  
25 Cal.App.3d 852, 856-859, 118 Cal.Rptr. 828.)

26 *Solvang Mun. Improvement Dist. v. Board of Supervisors*, 112 Cal. App. 3d 545, 553–554  
27 (1980) (emphasis added).

1 194. Despite its label as a “tax,” the ULA, in the alternative, is really a special  
2 assessment to build public improvements that the proponents of the tax claim will benefit,  
3 by reducing homelessness, the properties charged with funding it, to wit: “The Affordable  
4 Housing Program would fund the development of affordable housing to serve acutely low,  
5 very low, and low-income households.” (VIP, p. 29.) “ULA will go to work quickly *by*  
6 *purchasing existing buildings* and cutting red tape to create more affordable housing.”  
7 (VIP, p. 32.)

8 This tax is estimated to generate \$600 million to \$1.1 billion  
9 annually. At least 92 percent of the proceeds from the tax would  
10 fund affordable housing under the Affordable Housing Program  
11 and tenant assistance programs under the Homeless Prevention  
12 Program. No more than 8 percent would fund program  
13 administration, reporting, compliance, and implementation.

14 This measure’s goals include increasing the supply of affordable  
15 housing, addressing the need for tenant protections and  
16 assistance programs, and building organizational capacity of  
17 organizations serving low-income and disadvantaged  
18 communities, among others.

19 The Affordable Housing Program would fund the development of  
20 affordable housing to serve acutely low, very low, and low-  
21 income households. Housing units would be affordable for 55  
22 years or permanently, if permitted by law, and be subject to  
23 resale restrictions.

24 This program would fund affordable housing, including: •  
25 Development of multifamily housing; • Alternative housing  
26 solutions that can include new supportive and affordable rental  
27 or mixed rental/homeownership projects, with up to 20 percent  
28 of the units available at market rate and 20 percent set aside for

1 acutely or extremely low-income households; • Acquisition,  
2 preservation, lease, rehabilitation, or operation of affordable  
3 housing; and • Homeownership opportunities, capacity-building  
4 for Community Land Trusts and similar organizations, operating  
5 assistance, and rental subsidies.

6 (VIP, p. 29.)

7 Based on 2021-2022 real estate sales, Initiative Ordinance ULA  
8 could generate around \$900 million every year. Initiative  
9 Ordinance ULA will go to work quickly by purchasing existing  
10 buildings and cutting red tape to create more affordable housing.

11 (VIP, p. 32.)

12 195. “Property may be specially assessed only for improvements that provide it  
13 benefits beyond those received by the public.” *White v. County of San Diego*, 26 Cal. 3d  
14 897, 904 (1980).

15 196. The ULA is clearly an assessment against only certain properties (i.e., those  
16 that sell for more than \$5,000,000), to pay for public improvements (i.e., low-cost housing  
17 for homeless persons), for the benefit of all of society, and not merely the benefit of the  
18 property owners who pay the ULA taxes.

19 197. But the only members of society who are responsible to pay the ULA tax are  
20 the sellers of properties within the \$5,000,001 property sub-class (sellers of properties that  
21 sell for \$5,000,000 or more). The rest of the members of society, who receive the same  
22 benefit from the reduction of homelessness, pay nothing under the ULA.

23 198. While it could be said, in the abstract, that every real property in Los Angeles,  
24 indeed every person whether they own property or not, will benefit from a reduction in  
25 homelessness occasioned by the development of affordable housing funded by  
26 assessments against properties in Los Angeles, it cannot be said that only those properties  
27 upon which the ULA is levied (comprising only about 3% of the properties sold in Los  
28 Angeles) benefit any more than any other properties, or, more particularly, that the

1 \$4,999,999 property sub-class do not benefit whatsoever from the development of  
2 affordable housing funded by the ULA. In this sense, there is no proportionality, either  
3 approximate or any at all between the hundreds of thousands of dollars in assessments that  
4 must be paid by each of the sellers of properties within the \$5,000,001 property sub-class,  
5 while each of the property owners of properties in the \$4,999,999 property sub-class pays  
6 nothing.

7 199. While the constitutional requirements of uniformity and fair apportionment  
8 do not require a precise measurement of “benefit” flowing to the property owner affected,  
9 the courts have said that the cost of the improvement must be spread among the benefited  
10 property owners in some equitable manner.

11 200. The courts have said that while the assessment levied against a particular  
12 parcel need not be exactly proportional to the benefit received by such parcel, a disparity,  
13 as here, of 100% between the assessment and benefit is unacceptable.

14 201. In the case of the ULA, the sellers of properties in the \$5,000,001 property  
15 sub-class pay 100% of the ULA while all other property owners in Los Angeles pay zero  
16 (0) even though all parcels benefit, roughly equally, by the public improvements funded  
17 by such special assessment.

18 202. In *American River Flood Control Dist. v. Sayre*, 136 Cal. App. 3d 347, 357  
19 (1982), the Court of Appeal indicated that a margin of error of 25 to 30 percent would be  
20 acceptable in calculating the benefit assessment but that a disparity of 100 percent between  
21 assessment and benefit would be unacceptable.

22 203. The provisions of the ULA “inevitably force” the \$5,000,001 property sub-  
23 class owners “alone to bear public burdens which, in all fairness and justice, should be  
24 borne by the public as a whole.” *Murr v. Wisconsin*, 137 S. Ct. 1933, 1943 (2017). Because  
25 the owners of the \$5,000,001 property sub-class are, by the terms of the law, afforded no  
26 compensation, the ULA is facially invalid, under the Takings Clauses of both the United  
27 States Constitution and the California Constitution.  
28

**EIGHTH CLAIM FOR RELIEF**

**(Governmental Taking Without Compensation – Against Defendants)**

204. Plaintiffs re-allege and incorporate herein by this reference each and every allegation set forth in paragraphs 1 through 203 as though fully set forth herein.

205. The ULA is an unconstitutional taking under the Fifth Amendment of the United States Constitution and the California Constitution because the money demanded under the ULA is so arbitrary as to constrain to the conclusion that it was not the exertion of taxation but a confiscation of property.

206. The takings clause of the Fifth Amendment to the United States Constitution provides, in pertinent part: “nor shall private property be taken for public use, without just compensation.”

207. The analogous provision of the California Constitution, Article I, Section 19, reads in pertinent part: “Private property may be taken or damaged for public use only when just compensation, ascertained by a jury unless waived, has first been paid to, or into court for, the owner.” The California Supreme Court has held that this provision of the California Constitution is more protective of private property than the federal Constitution. *See Varjabedian v. City of Madera*, 20 Cal. 3d 285, 296-298 (1977).

208. The Takings Clause does cover temporary takings for the period before an invalid land use control is struck down. *See First English Evangelical Lutheran Church of Glendale v. County of Los Angeles, Cal.*, 482 U.S. 304, 318 (1977).

209. Even a tax can constitute a taking under the United States Constitution and the California Constitution. The ULA’s obligation to pay money rather than real or personal property does not mean that it cannot be an unconstitutional taking even though money is generally considered fungible. *See United States v. Sperry Corp.*, 493 U.S. 52, 62 n.9 (1989) (money may still be subject to a per se taking if it is a specific, identifiable pool of money); *see also Phillips v. Wash. Legal Found.*, 524 U.S. 156, 169–170 (1998).

210. Indeed, the Supreme Court has held multiple times that money can be subject to a taking, based on the United States Supreme Court’s “long-settled view that property

1 the government could constitutionally demand through its taxing power can also be taken  
2 by eminent domain.” *Koontz v. St. Johns River Water Mgmt. Dist.*, 570 U.S. 595, 616  
3 (2013).

4 211. When the government commands the relinquishment of funds linked to a  
5 specific, identifiable property interest such as a bank account or parcel of real property, a  
6 “per se [takings] approach” is the proper mode of analysis under the Court’s precedent.  
7 *See Brown v. Legal Foundation of Wash.*, 538 U.S. 216, 235 (2003); *Koontz, supra*, 570  
8 U.S. at 613.

9 212. The monies being taken by the ULA are taken from a completely identifiable  
10 pool of money. Upon the sale of each property, identified by its legal description and/or  
11 assessor’s parcel number and/or its municipal address, a wholly identifiable escrow agent  
12 is required to pay from a wholly identified escrow account a wholly identifiable amount  
13 of money (i.e. 4% of the gross proceeds for sales of \$5,000,001 to \$9,999,999, and 5.5%  
14 of sales of \$10,000,000 or more), from the wholly identifiable bank account of such  
15 escrow agent to the wholly identifiable County Recorder as a pre-condition to recording  
16 the wholly identifiable deed of transfer for the sale of the wholly identifiable property.  
17 The amount of money being taken by the ULA is wholly identifiable and unique in every  
18 respect and is not, in the slightest respect, a tax of general applicability.

19 213. Taxes could constitute a taking if the act complained of was so arbitrary as  
20 to constrain to the conclusion that it was not the exertion of taxation, but a confiscation of  
21 property. *See Koontz*, 570 U.S. at 615 (collecting cases distinguishing taxes and user fees  
22 from money that can be taken). Thus, when it comes to takings “[t]he Constitution...is  
23 concerned with means as well as ends.” *Horne v. Department of Agriculture*, 576 U.S.  
24 350, 362 (2015); *see also Dickman v. Comm’r of Internal Rev.*, 465 U.S. 330, 336 (1984)  
25 (“We have little difficulty accepting the theory that the use of valuable property—in this  
26 case money—is itself a legally protectible property interest.”).

27 214. Thus, even if the ULA “tax” is considered to be a true tax, it can still  
28 constitute a taking if, as here, “the act complained of was so arbitrary as to constrain the

1 conclusion that it was not the exertion of taxation, but a confiscation of property.”  
2 *Brushaber v. Union Pac. R. Co.*, 240 U.S. 1, 24-25 (1916).

3 215. The ULA applies to only a small group of property owners comprising the  
4 sellers of properties within the \$5,000,001 property sub-class, leaving unregulated all of  
5 the many thousands of other commercial and residential properties in the City comprising  
6 the \$4,999,999 property sub-class. The 4.0% or 5.5% ULA taxes are obviously not  
7 imposed on the owners or sellers of every other property in the City. Consequently, a  
8 heightened level of scrutiny is proper because this is the type of particularized  
9 governmental exaction imposed upon a property owner which was seen in *Ehrlich*. See  
10 *Ehrlich, supra*, 12 Cal. 4th at 876.

11 216. In this case, the confiscation, touted falsely and with intentional  
12 discrimination as only being applied to “millionaires and billionaires,” of 4% or 5.5% of  
13 the gross value of any real property in Los Angeles upon its transfer, without regard to  
14 whether such transfer results in a profit or loss, without regard to any distinction between  
15 the type of real estate, the time during which such property was held, and the fact that zero  
16 dollars are being taken from other similarly situated property owners is so arbitrary as to  
17 constrain the conclusion that it was not the exertion of taxation, but a confiscation of  
18 property. It therefore violates both the United States Constitution and the California  
19 Constitution.

20 **NINTH CLAIM FOR RELIEF**

21 **(Violation of Freedom of Speech – Against Defendants)**

22 217. Plaintiffs re-allege and incorporate herein by this reference each and every  
23 allegation set forth in paragraphs 1 through 216 as though fully set forth herein.

24 218. The ULA violates the freedom of speech guarantees in both the United States  
25 Constitution and the California Constitution because it imposes an unreasonable burden  
26 on some property owners’ rights to give public notice of the title to their property.

27 219. The purpose of the recording of deeds is to give public notice of the  
28 ownership of properties to all of the world. The recording of a deed is a statement by its

1 owner to all the world that “I own this property” or that “I transferred this property to this  
2 person.” Thus, such notice is a constitutionally protected form of speech protected by the  
3 First Amendment of the United States Constitution and the California Constitution.

4 220. The imposition of an exorbitant charge in a minimum amount of at least  
5 \$200,000 and possibly millions of dollars, upon those few persons who are sellers of  
6 properties within the \$5,000,001 property sub-class in order to merely exercise their right  
7 of free speech and give public notice of the ownership or transfer of ownership of their  
8 properties, is an unconstitutional abridgment of such protected right of free speech.

9 221. The government cannot charge members of one small group hundreds of  
10 thousands or millions of dollars merely to exercise their constitutional right to the same  
11 freedom of speech to say exactly the same thing (e.g., “I own this property”), which is  
12 enjoyed by all others who only pay the relatively nominal amount of money to exercise  
13 the same right (i.e., the approximate proportional cost of administering the recording  
14 offices and registering a deed). *See Wieman v. Updegraff*, 344 U.S. 183, 191 (1952)  
15 (“[T]he government may not deny a benefit to a person on a basis that infringes his  
16 constitutionally protected ... freedom of speech even if he has no entitlement to that  
17 benefit[.]”) (Internal quotation marks omitted).

18 222. The United States Supreme Court has stated:

19 We have often concluded that denials of governmental benefits  
20 were impermissible under the unconstitutional conditions  
21 doctrine. See, e.g., *Perry*, 408 U.S., at 597, 92 S.Ct. 2694  
22 (explaining that the government “may not deny a benefit to a  
23 person on a basis that infringes his constitutionally protected  
24 interests” (emphasis added)); *Memorial Hospital*, 415 U.S. 250,  
25 94 S.Ct. 1076, 39 L.Ed.2d 306 (finding unconstitutional  
26 condition where government denied healthcare benefits). In so  
27 holding, we have recognized that regardless of whether the  
28 government ultimately succeeds in pressuring someone into



1           227. Here, there is neither a reasonable, nor a substantial, relationship between the  
2 act of selling real estate and homelessness. The absurdity and unreasonableness of the  
3 ULA can best be illustrated with an example. Take for example automobiles. The State of  
4 California implements a yearly vehicle license fee that acts as a tax based on the value of  
5 an automobile. This tax needs to be paid on a yearly basis when an individual renews his  
6 or her automobile registration. Unlike the ULA (which only taxes the sellers of properties  
7 within the \$5,000,001 property sub-class), *all* individuals with automobiles registered in  
8 the State of California must pay the yearly vehicle license fee. While someone who drives  
9 a Lamborghini will undoubtedly be paying more per year, individuals with Lamborghinis  
10 are not the *only* individuals who are required to pay the yearly vehicle license fee. To take  
11 it a step further (which is what Defendants have done with the ULA); imagine that only  
12 the Lamborghini owners were required to pay the yearly vehicle license fee, and that funds  
13 from the yearly vehicle license fee that were only required to be paid by Lamborghini  
14 owners were to be used to build and provide free cars to individuals who were carless.  
15 While it sounds ludicrous, that is exactly what the ULA does.

16           228. By virtue of the foregoing, the ULA Ordinance is in violation of the  
17 substantive due process protections of the United States Constitution and the California  
18 Constitution and, thus, this Court should declare it unconstitutional.

19                           **ELEVENTH CLAIM FOR RELIEF**

20                           **(Unlawful Delegation of Authority – Against All Defendants)**

21           229. Plaintiffs re-allege and incorporate herein by this reference each and every  
22 allegation set forth in paragraphs 1 through 228 as though fully set forth herein.

23           230. Under the doctrine of separation of powers, the lawmaking function is  
24 assigned to the legislature, it is a cardinal principle of constitutional law that the legislature  
25 cannot delegate to any other agency its primary and exclusive power to make laws (*Kugler*  
26 *v. Yocum*, 69 Cal. 2d 371, 375 (1968)), nor may the people, in enacting a law through the  
27 passage of an initiative measure, delegate their legislative power. *Southern Cal. Jockey*  
28 *Club v. California Horse Racing Bd.*, 36 Cal. 2d 167, 171 (1950).

1 231. Here, the delegation of power through the passage of an initiative measure is  
2 exactly what has occurred. The ULA unconstitutionally delegates rulemaking power as  
3 discussed above (and specifically in Paragraphs 172 through 176 herein).

4 232. By virtue of the foregoing, the ULA Ordinance is in violation of the doctrine  
5 of separation of powers and, thus, this Court should declare it unconstitutional.

6 **TWELFTH CLAIM FOR RELIEF**

7 **(The ULA is Unconstitutionally Vague – Against All Defendants)**

8 233. Plaintiffs re-allege and incorporate herein by this reference each and every  
9 allegation set forth in paragraphs 1 through 232 as though fully set forth herein.

10 234. “[A] statute will be deemed void for vagueness if it either forbids or requires  
11 the doing of an act in terms so vague that persons of common intelligence must necessarily  
12 guess as to its meaning and differ as to what is required.” *Nisei Farmers League v. Labor*  
13 *& Workforce Development Agency*, 30 Cal.App.5th 997, 1013 (2019). As discussed above  
14 (and specifically in Paragraphs 172 through 176 herein), the ULA leaves many questions  
15 unanswered, which results in persons of common intelligence to guess as to its meaning  
16 and differ as to what is requires. Indeed, the procedure and criteria for issuing exemptions  
17 from the ULA tax is admittedly completely undefined and, indeed, non-existent, but rather  
18 is left to be “according to a procedure **that will be promulgated** by the Los Angeles  
19 Housing Department, **or its successor agency.**” In other words, the procedure and criteria,  
20 and perhaps even the agency, for issuing such exemptions **does not even exist.** An  
21 ordinance cannot get any more vague than that.

22 235. By virtue of the foregoing, the ULA Ordinance is unconstitutionally vague  
23 and, thus, this Court should declare it unconstitutional.

24 **THIRTEENTH CLAIM FOR RELIEF**

25 **(The ULA Violates the Commerce Clause – Against All Defendants)**

26 236. Plaintiffs re-allege and incorporate herein by this reference each and every  
27 allegation set forth in paragraphs 1 through 235 as though fully set forth herein.  
28

1 237. The Commerce Clause which refers to Article 1, Section 8, Clause 3 of the  
2 U.S. Constitution gives Congress the power “to regulate commerce...among the several  
3 states...”

4 238. On information and belief, the sheer magnitude of the ULA tax of 4.0% to  
5 5.5% of the gross proceeds of sale of property comprised in the \$5,000,001 sub-set  
6 retroactively impairs the loan to value ratios and, thereby, impairs the security of real  
7 estate mortgage loans and devalues such loans that have been issued by federally regulated  
8 lending institutions and/or that have been issued by, insured and/or guaranteed by federal  
9 agencies and/or federally sponsored agencies including but not limited to Freddie Mac,  
10 Fannie Mae, FHA and the SBA, all of which operate not only throughout the state of  
11 California but throughout all states within the United States.

12 239. On information and belief, by (retroactively) impairing the value of the  
13 security of such loans issued and/or insured and/or guaranteed by federally regulated  
14 lending institutions, federal agencies and federally sponsored agencies which conduct  
15 business throughout all states, the ULA has unconstitutionally impaired and interfered  
16 with interstate commerce among the states, in violation of the Commerce Clause and the  
17 ULA is therefore unconstitutional and invalid and this Court should declare it to be so.

18 **FOURTEENTH CLAIM FOR RELIEF**

19 **(Damages Under 42 U.S.C. Section 1983 – Against Defendants)**

20 240. Plaintiffs re-allege and incorporate herein by this reference each and every  
21 allegation set forth in paragraphs 1 through 239 as though fully set forth herein.

22 241. 42 U.S.C. Section 1983 provides, in pertinent part, that:

23 Every person who, under color of any...ordinance of any State or  
24 Territory...subjects, or causes to be subjected, any citizen of the United States or other  
25 person within the jurisdiction thereof to the deprivation of any rights, privileges, or  
26 immunities secured by the Constitution and laws, shall be liable to the party injured in an  
27 action at law, suit in equity, or other proper proceeding for redress....  
28

1           242. Under 42 U.S.C. Section 1983, the City, acting through the Electorate, in  
2 enacting the invalid ULA, under the color of an ordinance, and the County and Recorder’s  
3 Office, in facilitating the collection of the ULA taxes, deprived Plaintiffs of their rights  
4 to: equal protection under the United States Constitution and the California Constitution,  
5 compensation for takings under the United States Constitution and the California  
6 Constitution, freedom of speech under the United States Constitution and the California  
7 Constitution, freedom from retroactive legislation under Article 1, Section 10 of the  
8 United States Constitution, freedom from violation of the Commerce Clause of the United  
9 States Constitution, procedural due process and substantive due process under the United  
10 States Constitution and the California Constitution.

11           243. Plaintiffs can and hereby do sue Defendants under 42 U.S.C. Section 1983.

12                           **GOVERNMENT CLAIMS ACT COMPLIANCE**

13           244. Plaintiffs, concurrently herewith or shortly hereafter (within the applicable  
14 deadlines), have/will present claims to Defendants pursuant to the Government Claims  
15 Act, *Government Code* §900 *et seq.* (the “Governmental Claims”).

16           245. As of this time, Defendants have not accepted or rejected any of the  
17 Governmental Claims.

18           246. Plaintiffs could not wait for Defendants to accept and/or reject the  
19 Governmental Claims before filing this Complaint because of the need to challenge the  
20 ULA within the required time period under any interpretation of the reverse validation  
21 statutes (should they apply).

22                           **FIFTEENTH CLAIM FOR RELIEF**

23                           **(Writ of Mandate – Against Defendants)**

24           247. Plaintiffs re-allege and incorporate herein by this reference each and every  
25 allegation set forth in paragraphs 1 through 246 as though fully set forth herein.

26           248. Upon information and belief, Defendants have refused, and continue to  
27 refuse, to comply with all applicable law, including, without limitation, Propositions 13,  
28 26 and/or 218 as codified in article XIII A – D of the California Constitution, the equal

1 protection, takings, freedom of speech, retroactive impairment of contracts, commerce and  
2 due process clauses of the United States Constitution, and the California Constitution, and  
3 prohibitions on by, among other things, enacting, imposing, collecting and/or enforcing  
4 the ULA taxes. Defendants' enactment, imposition, collection and enforcement of the  
5 ULA taxes and Defendants' improper use and/or diversion of revenue generated from the  
6 ULA taxes, as well as any and all acts and proceedings leading up to the same, are  
7 unlawful, invalid, void and/or unconstitutional.

8 249. Plaintiffs have a clear, present and beneficial right to the performance of  
9 Defendants' duties to comply with all applicable law and policy including, without  
10 limitation, the constitutional and statutory mandates of the California Constitution  
11 (including Propositions 13, 26 and 218, as codified at article XIII A – D) and the United  
12 States Constitution.

13 250. Plaintiffs have been damaged by Defendants' violations of Proposition 13  
14 because, among other things, Plaintiffs have been and/or will be forced to pay special  
15 transfer taxes of from 4% to 5.5% of the gross sales proceeds or value of their properties  
16 in the City of Los Angeles. Plaintiffs have also suffered diminution in value of their  
17 properties due to the unlawful ULA Ordinance and taxes.

18 251. In the alternative, Plaintiffs have been damaged by Defendants' violations of  
19 Proposition 218 and/or 26 because, among other things, Plaintiffs have been, or will be,  
20 forced to pay property-related assessments, exactions, taxes, fees or charges under the  
21 guise of purported special transfer taxes which are prohibited by the California  
22 Constitution, the United States Constitution and *Government Code* section 53725.

23 252. Defendants have also violated Plaintiffs' right to equal protection under the  
24 United States Constitution and the California Constitution, compensation for takings  
25 under the United States Constitution and the California Constitution, freedom of speech  
26 under the United States Constitution and the California Constitution, freedom from  
27 retroactive legislation under Article 1, Section 10 of the United States Constitution,  
28 freedom from violation of the Commerce clause and procedural due process and

1 substantive due process under the United States Constitution and the California  
2 Constitution. These constitutional enactments guarantee that a person will not be deprived  
3 of his or her property without due process of law and without just compensation.

4 253. In addition, the equal protection clause set forth at Section 7, Article 1 of the  
5 California Constitution provides that “[a] person may not be ... denied equal protection of  
6 the laws” and the equal protection clause set forth in the Fourteenth Amendment to the  
7 United States Constitution provides that the State shall not “deny to any person within its  
8 jurisdiction the equal protection of the laws.”

9 254. In addition, Plaintiffs are informed and believe, and based thereon allege, that  
10 among other things, the wrongful conduct of Defendants as alleged herein were acts  
11 committed by government officials under color of state law. Defendants’ illegal conduct  
12 constitutes a violation of Plaintiffs’ civil rights under 42 U.S.C. § 1983 in that, among  
13 other things, under color of this illegal conduct, Defendants have subjected Plaintiffs to a  
14 deprivation of their rights and privileges under the United States Constitution as alleged  
15 herein.

16 255. As a proximate result of the foregoing, Defendants have sought to exact a  
17 certain measure of punishment (under the guise of acting under state law) against Plaintiffs  
18 all in violation of Plaintiffs’ constitutionally protected rights. Being motivated by  
19 improper animus, comprising “class warfare” against persons many of whom were falsely,  
20 derisively and discriminatorily labeled “millionaires and billionaires,” in derogation of  
21 Plaintiffs’ constitutional rights, the illegal imposition, collective, use and/or diversion of  
22 the unlawful ULA taxes are actionable under 42 U.S.C. § 1983. Plaintiffs have also  
23 incurred and/or will incur attorneys’ fees and other fees and costs because of this  
24 proceeding, which Plaintiffs are entitled to recover pursuant to 42 U.S.C. § 1988.

25 256. Defendants have violated, and continue to violate, the law as alleged herein  
26 each and every time the subject ULA taxes have been unlawfully demanded, used, applied,  
27 transferred, diverted, increased, imposed and/or collected. Accordingly, Plaintiffs will  
28 continue to suffer such harm for as long as Defendants continue to impose, demand,

1 collect, enforce, use and/or divert the unlawful ULA taxes in violation of applicable law  
2 and the United States Constitution and California Constitution.

3 257. Plaintiffs do not have an adequate remedy at law.

4 258. Accordingly, Plaintiffs are entitled to a writ of mandate pursuant to *Code of*  
5 *Civil Procedure* §1085 directing Defendants to, among other things: (a) cease and desist  
6 in the collection and enforcement of the ULA taxes; (b) vacate any and all decisions, acts,  
7 ordinances and/or resolutions unlawfully imposing, authorizing, extending, increasing,  
8 diverting, spending or transferring the ULA taxes; (c) restore to Plaintiffs any and all  
9 moneys that have been unlawfully and/or improperly collected as ULA taxes; (d) restore  
10 to Plaintiffs any and all moneys collected through ULA taxes that were unlawfully  
11 diverted, transferred or applied to other purposes; and (e) comply with their constitutional  
12 and legal obligations with respect to the ULA taxes.

13 **SIXTEENTH CLAIM FOR RELIEF**

14 **(Declaratory Relief – Against All Defendants)**

15 259. Plaintiffs re-allege and incorporate herein by this reference each and every  
16 allegation set forth in paragraphs 1 through 258 as though fully set forth herein.

17 260. Pursuant to 28 U.S.C. § 2201, et seq., and *Cal. Code of Civil Procedure*  
18 §1060 et seq., Plaintiffs seek a declaration of the parties' respective rights and duties  
19 regarding the ULA Ordinance and the ULA taxes.

20 261. Plaintiffs contend that the ULA Ordinance and the ULA taxes are unlawful  
21 and improper because, among other things, the ULA taxes: (a) do not comply with the  
22 prohibition on special transfer taxes under Proposition 13; (b) do not comply with the  
23 requirements for local "taxes"; and/or (c) do not comply with the requirements for  
24 property related assessments, fees or charges under Proposition 218 because, among other  
25 reasons, they are not proportional to the special benefit or service actually received by the  
26 particular properties, (d) do not comply with Government Code Section 53725, and (e) do  
27 not comply with the United States Constitution and the California Constitution. Plaintiffs  
28

1 further contend that Defendants’ use and diversion of the ULA taxes is, and has been,  
2 unlawful.

3 262. Upon information and belief, Defendants deny the contentions of Plaintiffs.  
4 Therefore, an actual controversy has arisen and now exists between the Plaintiffs, on the  
5 one hand, and the Defendants, on the other hand.

6 263. Accordingly, Plaintiffs hereby request a judicial declaration of their rights  
7 with respect to the controversy described herein. Such a declaration is necessary and  
8 appropriate at this time under the circumstances so that Plaintiffs can ascertain their  
9 ongoing rights and duties with respect to the ULA Ordinance and ULA taxes.

10 **SEVENTEENTH CLAIM FOR RELIEF**

11 **(Determination of Invalidity – Against All Defendants)**

12 264. Plaintiffs re-allege and incorporate herein by this reference each and every  
13 allegation set forth in paragraphs 1 through 263 as though fully set forth herein.

14 265. Plaintiffs bring this *in rem* reverse validation action in order to protect the  
15 rights of Plaintiffs, and only to the extent, that the validation statutes at *Code of Civil*  
16 *Procedure* §§ 860 *et seq.* are deemed to apply to the matters alleged herein.

17 266. As alleged herein, the ULA taxes are invalid because such taxes violate  
18 applicable law and policy including, but not limited to, Proposition 13, Proposition 218,  
19 and Proposition 26 (as codified in Article XIII A-D of the California State Constitution),  
20 as well as the United States Constitution and the California Constitution and/or other  
21 applicable law.

22 267. By virtue of the foregoing, the ULA Ordinance and ULA taxes and all  
23 proceedings related thereto are invalid.

24  
25  
26  
27  
28 //

**PRAYER FOR RELIEF**

1  
2       **WHEREFORE**, Plaintiffs request entry of a judgment in their favor and against  
3 Defendants, and each of them, and prays for the following relief:

4       **On the First, Second, Third, Fourth, Fifth, Sixth, Seventh, Eighth, Ninth,**  
5 **Tenth, Eleventh, Twelfth and Thirteenth Claims for Relief:**

6       1. A judicial determination and declaration that the ULA Ordinance is invalid  
7 because it violates one or more provisions of the United States Constitution, the California  
8 Constitution, and/or one or more provisions of California law and policy including, but  
9 not limited to Proposition 218, Proposition 26 and/or Proposition 13 (as codified in article  
10 XIII A–D of the California State Constitution).

11       2. A judicial determination and declaration that the ULA Taxes are invalid,  
12 illegal, void, unenforceable and not binding on anyone.

13       3. Writ of mandate pursuant to *Code of Civil Procedure* §1085 directing  
14 Defendants to, among other things: (a) cease and desist in the collection and enforcement  
15 of the ULA taxes; (b) vacate any and all decisions, acts, ordinances and/or resolutions  
16 unlawfully imposing, authorizing, extending, increasing, diverting, spending or  
17 transferring the ULA; (c) restore to Plaintiffs’ any and all moneys that have been  
18 unlawfully and/or improperly collected as ULA taxes; (d) restore to Plaintiffs all moneys  
19 collected through ULA taxes that were unlawfully diverted, transferred or applied to other  
20 purposes; and (e) comply with their constitutional and legal obligations with respect to the  
21 ULA taxes.

22       4. A judicial determination of the parties’ respective rights and duties regarding  
23 the so-called ULA Ordinance that is consistent with the allegations set forth in this  
24 Complaint and in accordance with applicable law, contracts and policy.

25       5. An order and/or judgment pursuant to *Code of Civil Procedure* § 526a  
26 restraining and preventing any and all illegal expenditures of funds collected by  
27 Defendants as so-called ULA taxes including, without limitation, a judgment prohibiting  
28 Defendants from: (i) using or diverting the ULA taxes in a manner that is in violation of

1 applicable law and/or contractual obligations and/or against policy including, without  
2 limitation, Propositions 13, 26 and/or 218 (codified at article XIII A–D of the California  
3 Constitution), and/or (ii) using or diverting ULA taxes in any other manner that violates  
4 the U.S. or California Constitution, applicable law and/or contractual obligations and/or  
5 against policy including, without limitation, Propositions 13, 26 and/or 218 (codified at  
6 article XIII A–D of the California Constitution).

7 **On the Fourteenth Claim for Relief:**

8 6. Damages according to proof.

9 7. Attorneys’ fees and costs pursuant to 42 U.S.C. § 1988.

10 **On the Fifteenth Claim for Relief:**

11 8. A writ of mandate pursuant to *Code of Civil Procedure* §1085 directing  
12 Defendants to, among other things: (a) cease and desist in the collection and enforcement  
13 of the ULA taxes; (b) vacate any and all decisions, acts, ordinances and/or resolutions  
14 unlawfully imposing, authorizing, extending, increasing, diverting, spending or  
15 transferring the ULA taxes; (c) restore to Plaintiffs’ any and all moneys that have been  
16 unlawfully and/or improperly collected as ULA taxes; (d) restore to Plaintiffs all moneys  
17 collected through ULA taxes that were unlawfully diverted, transferred or applied to other  
18 purposes; and (e) comply with their constitutional and legal obligations with respect to the  
19 ULA taxes.

20 9. An order and/or judgment pursuant to *Code of Civil Procedure* §526a  
21 restraining and preventing any and all illegal expenditures of funds collected by  
22 Defendants as so-called ULA taxes including, without limitation, a judgment prohibiting  
23 Defendants from: (i) using or diverting the ULA taxes in a manner that is in violation of  
24 applicable law and/or contractual obligations and/or against policy including, without  
25 limitation, Propositions 13, 26 and/or 218 (codified at article XIII A–D of the California  
26 Constitution), and/or (ii) using or diverting ULA taxes in any other manner that violates  
27 the U.S. or California Constitution, applicable law and/or contractual obligations and/or  
28

1 against policy including, without limitation, Propositions 13, 26 and/or 218 (codified at  
2 article XIII A–D of the California Constitution).

3 **On the Sixteenth Claim for Relief:**

4 10. A judicial determination and declaration that the ULA Ordinance is invalid  
5 because it violates one or more provisions of the United States Constitution, the California  
6 Constitution, and/or one or more provisions of California law and policy including, but  
7 not limited to Proposition 218, Proposition 26 and/or Proposition 13 (as codified in article  
8 XIII A–D of the California State Constitution).

9 11. A judicial determination and declaration that the ULA taxes are invalid,  
10 illegal, void, unenforceable and not binding on anyone.

11 12. A judicial determination of the parties’ respective rights and duties regarding  
12 the so-called ULA Ordinance that is consistent with the allegations set forth in this  
13 Complaint and in accordance with applicable law, contracts and policy.

14 **On the Seventeenth Claim for Relief:**

15 13. A judicial determination and declaration that the ULA Ordinance is invalid  
16 because it violates one or more provisions of the United States Constitution, the California  
17 Constitution, and/or one or more provisions of California law and policy including, but  
18 not limited to Proposition 218, Proposition 26 and/or Proposition 13 (as codified in article  
19 XIII A–D of the California State Constitution).

20 14. A judicial determination and declaration that the ULA taxes are invalid,  
21 illegal, void, unenforceable and not binding on anyone.

22 **On All Claims for Relief:**

23 15. Interest at the legal rate from the date of each loss or claim for refunds or  
24 restitution.

25 16. Costs incurred herein.

26 17. Attorneys’ fees pursuant to *Code of Civil Procedure* section 1021.5.

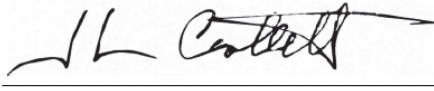
27 18. Such other and further relief as the Court may deem just and proper.  
28

**DEMAND FOR JURY TRIAL**

Plaintiffs hereby demand a trial by jury.


Dated: February 9, 2023

**COSTELL & ADELSON LAW CORPORATION**

By:   
\_\_\_\_\_  
Jeffrey Lee Costell  
Joshua Stambaugh  
Attorneys for Plaintiffs and Petitioners

Dated: February 9, 2023

**THE LAW OFFICES OF KEITH M. FROMM**

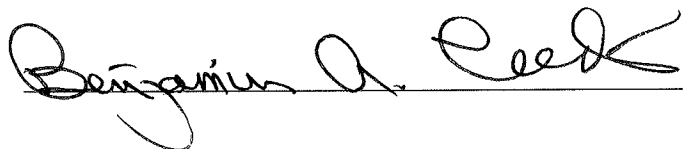
By:   
\_\_\_\_\_  
Keith M. Fromm  
Attorneys for Plaintiffs and Petitioners

**VERIFICATION**

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3 I, BENJAMIN LEEDS, am the Managing Member of NEWCASTLE  
4 COURTYARDS, LLC, a Plaintiff in the above-entitled action. I have read the foregoing  
5 Complaint and know the contents thereof. The same is true of my own knowledge,  
6 except as to those matters which are therein alleged on information and belief, and as to  
7 those matters, I believe it to be true.

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9 I declare under penalty of perjury that the foregoing is true and correct and that  
10 this declaration was executed at Los Angeles, California.

11 Dated: February 9, 2023

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