IN THE SUPREME COURT OF THE STATE OF CALIFORNIA

No. _____

CALIFORNIA BUILDING INDUSTRY ASSOCIATION,

Petitioner,

v.

CITY OF SAN JOSE,

Respondent.

AFFORDABLE HOUSING NETWORK
OF SANTA CLARA COUNTY, et al.,

Intervenors.

After an Opinion by the Court of Appeal,
Sixth Appellate District
(Case No. H038563)

On Appeal from the Superior Court of Santa Clara County
(Case No. CV167289, Honorable Socrates Manoukian, Judge)

PETITION FOR REVIEW

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Pursuant to California Rule of Court 8.500(a)(1), Plaintiff and Petitioner California Building Industry Association (CBIA) hereby submits the following Petition for Review (Petition) of the published decision of the Court of Appeal, Sixth Appellate District, filed on June 6, 2013, entitled *California Building Industry Association v. City of San Jose*, 216 Cal. App. 4th 1373 (June 6, 2013), a copy of which is attached hereto as Exhibit A (Opinion).

QUESTION PRESENTED FOR REVIEW

Must inclusionary housing ordinances which exact property interests or in-lieu development fees as a condition of development permit approval be reasonably related to the deleterious impact of the development on which they are imposed, as set forth in *San Remo Hotel L.P. v. City & County of San Francisco*, 27 Cal. 4th 643, 670 (2002)?

REASONS FOR GRANTING REVIEW

Inclusionary housing ordinances are legislative exactions, usually imposed by cities, which require builders of new homes, as a condition of permit approval, to set aside a number of the new homes themselves, or pay the equivalent value through in-lieu fees, for low income residents to purchase at below market prices. They are an increasingly common tool being implemented or considered by local governments in California to meet local needs for affordable housing. *See generally* Adam F. Cray, *The Use of Residential Nexus Analysis in Support of California's Inclusionary Housing*

Ordinances: A Critical Evaluation, Goldman School of Public Policy, University of California, Berkeley, Nov. 2011, at 4.[1] Local governments, housing advocates, purchasers of affordable housing, developers, and purchasers of market-rate housing all need to have a clear legal standard to determine whether such ordinances are constitutionally valid.

This Court should grant the Petition under Rule of Court 8.500(b)(1) to secure uniformity of decision on whether inclusionary housing ordinances must, as set forth in *San Remo Hotel L.P. v. City & County of San Francisco*, 27 Cal. 4th 643, 670 (2002) (*San Remo Hotel*), be reasonably related to any deleterious impacts of new residential developments on which they are imposed. This uniform rule of law is necessary because conflicting published opinions of two districts of the Court of Appeal have now come to opposite answers to that question.

Building Industry Association of Central California v. City of Patterson, 171 Cal. App. 4th 886, 898 (2009), holds that *San Remo Hotel* applies to inclusionary housing ordinances. The Opinion of the court below holds that *San Remo Hotel* does not apply to such ordinances. These two published decisions deal with materially identical inclusionary housing ordinances, and so cannot be distinguished on any principled ground. Trial

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[1] *Available at* http://www.cbia.org/go/linkservid/06D3172D-35C3-4C71-9A9098D439C63874/showMeta/0/ (last visited July 10, 2013).

courts and appellate courts will have no basis on which to decide whether the facts of a challenged inclusionary housing ordinance are more like those in *City of Patterson* or more like those in the Opinion, because the facts in these two cases are materially the same. As a consequence, future courts will have to choose which case to follow, and the result will be a patchwork of legal standards across the state.

This Court should also grant review to settle the important legal question of the extent to which the United States Supreme Court's recent decision in *Koontz v. St. Johns River Water Management District*, No. 11-1447, 2013 WL 3184628 (U.S. June 25, 2013) (*Koontz*), governs the judicial review of in-lieu development fees in California. *Koontz* clarifies that all in-lieu fees are land use exactions, which calls into serious question the Opinion's holding that in-lieu fees in inclusionary housing ordinances can be upheld as mere exercises of a city's police power. This Court should grant review under Rule 8.500(b)(1) to settle the important legal question of whether, under *Koontz*, in-lieu development fees in California must always be subject to the more rigorous standards of judicial review required by this Court's decisions in *Ehrlich v. City of Culver City*, 12 Cal. 4th 854 (1996), and *San Remo Hotel*.

PROCEDURAL HISTORY

CBIA commenced this action by filing its timely Complaint and Petition for Writ of Mandate on March 24, 2010 (Appellant's Appendix (AA) 0001-0074), as a facial challenge to the City of San Jose's Inclusionary Housing Ordinance, No 28689 (Ordinance), adopted January 26, 2010, and effective February 26, 2010. (AA 0017.) Following a bench trial, the trial court issued its Order Granting Plaintiff's Request for Temporary, Preliminary, and Permanent Injunctive Relief (Order) on May 25, 2012. (AA 3348-3354.) In the Order, the trial court applied *San Remo Hotel*, found that the City of San Jose (San Jose) had not identified any evidence that the Ordinance was reasonably related to any impact of new market rate housing development in the city, and permanently enjoined San Jose from enforcing the Ordinance absent such an evidentiary showing in the future. (AA 3353.) The Court entered Judgment After Trial on July 11, 2012, AA 3355-68, and Defendants appealed on July 18, 2012. (AA 3391-3395.) The Court of Appeal, Sixth Division, filed its published opinion, *CBIA v. City of San Jose*, 216 Cal. App. 4th 1373 (2013) (Opinion), on June 6, 2013. The Opinion reverses the Order and holds that *San Remo Hotel* is not applicable to the Ordinance, which is instead reviewable only as an exercise of the City's police power. Opinion, slip op. 16. The Opinion remands the case to the trial court for further proceedings subject to the revised standard of review. Opinion, slip op. at 19.

Both Plaintiff and Defendants filed timely petitions for rehearing in the Court of Appeal on June 21, 2013, which petitions were denied on July 1, 2013. The Opinion is final in the Court of Appeal as of July 6, 2013. Cal. R. Ct. 8.264(b)(1). CBIA now files this timely Petition in this Court under Rules of Court 8.500(a)(1) & (e)(1).

FACTUAL SUMMARY

This case is a facial challenge to the constitutional validity of the Ordinance. As such, the relevant facts are the provisions of the Ordinance itself. *Tobe v. City of Santa Ana*, 9 Cal. 4th 1069, 1084 (1995) (citing *Dillon v. Municipal Court*, 4 Cal. 3d 860, 865 (1971)).

The Ordinance applies to all new, non-exempt residential housing developments of more than 20 units in San Jose. San Jose Municipal Code (SJMC) § 5.08.310;[2] Opinion, slip op. at 3. The Ordinance defines "inclusionary units" as residential units affordable to buyers with from extremely low up to moderate incomes, SJMC § 5.08.205, and requires that new for-sale developments set aside 15% of their units as inclusionary units,

[2] The Ordinance is codified in the San Jose Municipal Code (SJMC), Title 5, Chapter 5.08. Future section references are to the SJMC (*available at* http://sanjose.amlegal.com/nxt/gateway.dll/California/sanjose_ca/sanjosemunicipalcode?f=templates$fn=default.htm$3.0$vid=amlegal:sanjose_ca).

id. § 5.08.400(A)(1).[3] Opinion, slip op. at 3. In the alternative, developers may substitute one of the following exactions:

(1) Build inclusionary units offsite equal to 20% of the number of market rate units, SJMC § 5.08.510.

(2) Pay an in-lieu fee.[4] *Id.* § 5.08.520(A). City staff projected that the in-lieu fee would be approximately $122,000 per inclusionary unit. AA 0944. (Attachment D to October 26, 2009 memorandum from Leslye Krutko, San Jose City Director of Housing, to Mayor and City Council, AA 0921-0944.)

(3) Dedicate land that is suitable for construction of inclusionary units and whose value is at least that of the applicable in-lieu fee. SJMC § 5.08.530(A).

(4) Acquire and/or rehabilitate existing units for use as inclusionary units. *Id.* § 5.08.550.

The trial court found that San Jose could point to no evidence in the record that any of these exactions are reasonably related to any deleterious public impacts of new residential developments. Order at 6, AA 3353.

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[3] A suspended provision, SJMC § 5.08.400(A)(2), requires that new rental developments set aside 20% of their units as inclusionary units.

[4] The amount of the in-lieu fee is the difference between the median sales price of an attached market rate unit in the prior 36 months and the affordable housing cost for a household of 2½ persons earning no more than 110% of the area median income. SJMC § 5.08.520(B)(1).

ARGUMENT

I

CITY OF PATTERSON AND THE OPINION CONTRADICT EACH OTHER ON WHETHER *SAN REMO HOTEL* APPLIES TO INCLUSIONARY HOUSING ORDINANCES

In the nine California counties that comprise the Fifth District Court of Appeal (Fresno, Kern, Kings, Madera, Mariposa, Merced, Stanislaus, Tulare, and Tuolumne Counties), inclusionary housing ordinances are subject to legal review under the *San Remo Hotel* standard. *Bldg. Indus. Ass'n of Cent. Cal. v. City of Patterson*, 171 Cal. App. 4th 886, 898 (2009). In the four neighboring counties comprising the Sixth District Court of Appeal (Santa Clara, San Benito, Santa Cruz, and Monterey Counties), inclusionary housing ordinances are *not* subject to legal review under the *San Remo Hotel* standard. Opinion, slip op. at 16 ("We thus conclude that the standard articulated in *San Remo* is inapplicable here, and that the Ordinance should be reviewed as an exercise of the City's police power."). The inclusionary housing ordinances reviewed in each of these cases are materially indistinguishable, yet the decisions come to opposite holdings on the application of *San Remo Hotel*. This Court should grant the Petition under Rule of Court 8.500(b)(1) to resolve this conflict.

A. *City of Patterson* Holds That *San Remo Hotel* Applies to Inclusionary Housing Ordinances

In *City of Patterson*, the ordinance in question required developers of new residential housing to meet one of four requirements, as a condition of development permit approval, in furtherance of the city's affordable housing policy: "(1) build affordable housing units; (2) develop senior housing within the project; (3) obtain a sufficient number of affordable residential unit credits from other residential developments within City; or (4) pay an in-lieu fee at the time the building permit is issued for a market rate housing unit." *City of Patterson*, 171 Cal. App. 4th at 890.

The essential requirements of Patterson's inclusionary housing ordinance are (1) providing affordable units as part of the development, (2) paying an in-lieu fee, or (3) offsite compliance (in this case, through credit transfers from other residential developments). These are the same essential elements of the Ordinance, as demonstrated below.

In *City of Patterson*, a home builder challenged the in-lieu fee requirement when the city increased the fee from $734 to $20,946 per new single family home. *Id*. at 891, 893. The Court of Appeal concluded in *City of Patterson* that the ordinance in question was "not substantively different" from the housing replacement fee considered in *San Remo Hotel*, and held that under *San Remo Hotel*, the ordinance in question could only be upheld if it had a reasonable relationship to the "deleterious public impact of the

development." *City of Patterson*, 171 Cal. App. 4th at 897-98 (discussing *San Remo Hotel*, 27 Cal. 4th at 671).

The Court of Appeal then concluded that Patterson's in-lieu fee was not reasonably related to the impact of the plaintiff's development, or any new development, because it was calculated on the number of affordable housing units allocated to Patterson by Stanislaus County, rather than any need for new housing caused by plaintiff's development or any of Patterson's pending residential developments. *City of Patterson*, 171 Cal. App. 4th at 899.

B. The Opinion Holds That *San Remo Hotel* Does Not Apply to Inclusionary Housing Ordinances

The Ordinance reviewed in the Opinion requires the developers of new residential projects of at least 20 units, as a condition of permit approval, to surrender one of the following exactions: (1) provide 15% of the units as inclusionary units (defined in terms of affordability to those with moderate to extremely low incomes);[5] (2) pay an in-lieu fee of $122,000,[6] or dedicate land of an equivalent value,[7] per required inclusionary unit; or (3) comply off-site through construction, acquisition, or rehabilitation of inclusionary units.[8]

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[5] SJMC § 5.08.400(A)(1).

[6] *Id.* § 5.08.520(A); AA 0944.

[7] SJMC § 5.08.530(A).

[8] *Id.* §§ 5.08.510, 5.08.550

The court below considered whether *San Remo Hotel* applies to the Ordinance, and held that it does not. Opinion, slip op. at 16. The Opinion first notes that the plaintiffs in *San Remo Hotel* were challenging a development fee whose purpose was to mitigate the loss of residential housing caused by the conversion of residential hotels to tourist use. Opinion, slip op. at 11 (citing *San Remo Hotel*, 27 Cal. 4th at 671, 673). The Opinion proceeds to observe that it was reasonable for this Court to require a reasonable relationship between the housing replacement fee and the hotel conversions in question because the fee was a mitigation fee for the hotel conversions. Opinion, slip op. at 11. The Opinion next concedes that the Ordinance is not intended to mitigate any loss of affordable housing caused by new residential development, but then remarkably concludes that "whether the Ordinance was reasonably related to the deleterious impact of market-rate residential development in San Jose *is the wrong question to ask in this case*." Opinion, slip op. at 11 (emphasis added).

By analyzing *San Remo Hotel* in this way, the court below goes beyond contradicting *City of Patterson*, to vitiating this Court's holding in *San Remo Hotel*. The Opinion reads *San Remo Hotel* as only requiring a reasonable relationship between a development fee and the deleterious public impacts of the development in those (soon to be rare) cases where a local government is foolish enough to claim that the fee is to mitigate harm caused by the

development. Under the Opinion, local governments are free of the *San Remo Hotel* standard if they are savvy enough to deny that a legislative development fee has any relationship to any negative impacts of the development. This contradicts *San Remo Hotel*, which requires that *all* legislative monetary exactions bear a reasonable relationship, in amount and purpose, to the deleterious impacts of the development. 27 Cal. 4th at 670.

The Opinion also makes a fundamental error when it concludes that the Ordinance should be reviewed as an exercise of the police power. Opinion, slip op. at 16. The only authority under which the Opinion could have applied this standard is *Ehrlich v. City of Culver City*, 12 Cal. 4th at 886, although the Opinion does not cite this case. *Ehrlich* held that a legislative development fee to fund public art was similar to conventional zoning ordinances that govern color schemes, landscaping, and architectural features. As such, the in-lieu fee was equivalent to an ordinary aesthetic or landscaping requirement enacted under the police power and hence not subject to any heightened scrutiny. *Id.* This Court has never extended this holding of *Ehrlich* beyond the context of aesthetic zoning regulations. But the Opinion provides no analysis at all of whether the Ordinance has anything to do with aesthetic elements of residential developments, and makes no conclusions on that subject.[9] Absent

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[9] The Ordinance is not an aesthetic zoning ordinance. It requires that the exterior aesthetics of inclusionary units be the same as market rate units within (continued...)

such a finding to support a conclusion that *Ehrlich* applies, the remaining option is that the Ordinance is a legislative monetary exaction, subject to *San Remo Hotel*. *Accord Koontz*, 2013 WL 3184628, at *12 (in-lieu development fees are "functionally equivalent to other types of land use exactions.").

Despite these problems, the Opinion holds that *San Remo Hotel* does not apply to the Ordinance. As with Patterson's inclusionary housing ordinance, the essential requirements of San Jose's Ordinance are: (1) providing affordable units as part of the development, (2) paying an in-lieu fee, or (3) offsite compliance (in this case, through building, buying, or rehabilitating offsite inclusionary units). Despite considering materially identical ordinances, the Opinion came to the opposite holding as *City of Patterson* on whether *San Remo Hotel* applies to inclusionary housing ordinances. Opinion, slip op. at 16.

As a result, *City of Patterson* and the Opinion create a conflict between two districts of the Court of Appeal on whether inclusionary housing ordinances must be reasonably related to the impacts of the developments on which they are imposed (as *City of Patterson* holds), or whether they may

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[9] (...continued)
a development, *i.e.*, to the extent the Ordinance deals at all with design, it expressly imposes no different exterior aesthetic requirements. SJMC § 5.08.470(B). In any event, the in-lieu fee in the Ordinance has nothing to do with what the inclusionary units look like, only what they cost.

simply be reasonably related to any legitimate public purpose (as the Opinion holds).

The Opinion attempts to distinguish *City of Patterson*, Opinion, slip op. at 12, but fails to do so on any principled basis that would legitimately divide the two cases. The facts in these two cases are the same in all material respects, and the pertinent legal question is the same in both cases. Future courts will have no basis on which to determine whether the facts of a particular inclusionary housing ordinance are more analogous to the facts in *City of Patterson*, or to the materially identical facts in the Opinion. Future courts will thus be left with the independent choice of which decision's holding to follow, and will create a patchwork of different legal rules across the state.

In arguing for a distinction, the court below notes that *City of Patterson* did not involve a facial challenge, and hence the plaintiff in that case was not required to meet the burden of showing the ordinance to be unconstitutional in the "generality or great majority of cases," the test *San Remo Hotel* applies for facial challenges. Opinion, slip op. at 12; *San Remo Hotel*, 27 Cal. 4th at 673. But that confuses the legal standard this Court established for legislative development fees in *San Remo Hotel* with the burden a plaintiff must meet when applying that test in a facial challenge. *San Remo Hotel* ruled on both a facial and an as-applied challenge to the San Francisco Housing

Conversion Ordinance. *See San Remo Hotel*, 27 Cal. 4th at 672 ("Plaintiffs attack the housing replacement provisions of the HCO both on their face and as applied to the San Remo Hotel."). *San Remo Hotel* applied the same rule in resolving both the facial and as-applied challenges, by examining whether the in-lieu fees in question were reasonably related to loss of residential hotel units in general, and whether the San Remo Hotel's calculated fee was reasonably related to the specific loss of its residential units. *Id.* at 672-74, 677-79. There is no basis for the Opinion to distinguish *City of Patterson*'s application of the *San Remo Hotel* rule on the basis that *City of Patterson* was an as-applied challenge.

The Opinion and *City of Patterson* directly conflict, and this Court should grant the Petition under Rule of Court 8.500(b)(1) to resolve this conflict.

II

INCLUSIONARY HOUSING ORDINANCES ARE A QUESTION OF SIGNIFICANT AND GROWING IMPORTANCE IN CALIFORNIA, AND THE COURT SHOULD GRANT THE PETITION TO SETTLE THIS IMPORTANT QUESTION OF LAW

"The exaction of inclusionary housing from developers . . . is most prevalent in states where housing is exceptionally expensive, such as California . . . ." Robert C. Ellickson, *The False Promise of the Mixed-Income Housing Project*, 57 UCLA L. Rev. 983, 1020 (2010). In the 1980s, only

about 35 California cities and counties adopted inclusionary housing programs, some of which may have included voluntary programs rather than exactions. *Inclusionary Zoning: Pro and Con*, 1 Land Use Forum 1 (Cal. CEB, Fall 1991). By 1996, however, this number grew to 75 locally mandated inclusionary housing programs across California. Nico Calavita et al., *Inclusionary Zoning: The California Experience*, NHC Affordable Housing Policy Review 3(1), Feb. 2004, at 6.[10] By 2002, the number was more than 100, and rising rapidly. *Inclusionary Zoning: Legal Issues*, California Affordable Housing Law Project, Dec. 2002, at 2.[11]

Supporters of inclusionary housing ordinances consider them to be "an important evolution in affordable housing policy" because they reduce the need for direct public payments for affordable housing. Daniel R. Mandelker, *The Effects of Inclusionary Zoning of Local Housing Markets: Lessons from the San Francisco, Washington D.C., and Suburban Boston Areas*, A.L.I.-A.B.A. Land Use Inst., Aug. 2008. However, as this Petition and *City of Patterson* attest, inclusionary housing ordinances raise significant constitutional and legal issues which require uniform resolution. As California's housing market recovers and housing affordability concerns

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[10] *Available at* http://www.nhc.org/media/documents/IZ_CA_experiencet.pdf (last visited July 15, 2013).

[11] *Available at* http://pilpca.org/wp-content/uploads/2010/10/IZLEGAL__12.02.pdf (last visited July 10, 2013).

increase, many more of California's 482 cities will likely consider inclusionary housing ordinances to advance affordable housing goals. In order to ensure orderly and effective consideration of such policies going forward, this Court should grant the Petition under Rule 8.500(b)(1) to settle the important legal question of whether *San Remo Hotel* applies to inclusionary housing ordinances.

III

THE UNITED STATES SUPREME COURT'S RECENT DECISION IN *KOONTZ V. ST. JOHNS RIVER WATER MANAGEMENT DISTRICT* UNDERMINES THE OPINION, AND THIS COURT SHOULD GRANT THE PETITION TO ADDRESS THE IMPORTANT LEGAL QUESTION OF WHETHER DEVELOPMENT FEES SHOULD EVER BE REVIEWED AS MERE EXERCISES OF THE POLICE POWER

The Opinion holds that in-lieu fees under inclusionary housing ordinances are subject to the most lenient standard of judicial review, that applicable to the exercise of the police power, under which the Ordinance may be deemed valid if it has a substantial and reasonable relationship to a legitimate public interest. Opinion, slip op. at 16.

Subsequent to the filing of the Opinion, and while CBIA and San Jose's petitions for rehearing were pending,[12] the United States Supreme Court issued

[12] CBIA filed a Notice of Supplemental Authority with the court below on July 1, 2013.

its decision in *Koontz v. St. Johns River Water Management District*, 2013 WL 3184628, which holds in relevant part that a government's demand for property from a land use applicant must satisfy the requirements of *Nollan v. California Coastal Commission*, 483 U.S. 825 (1987), and *Dolan v. City of Tigard*, 512 U.S. 374 (1994), even when the demand is for money. *Koontz*, 2013 WL 3184628, at *16. *Koontz* discusses the relationship between exactions of interests in real property and in-lieu fees, finding in-lieu fees to be commonplace and "functionally equivalent to other types of land use exactions." *Id.* at *12. The connection between a demand for money and a specific parcel of real property in the context of a development permit application is the essential factor in whether *Nollan* and *Dolan* apply to monetary exactions. *Id.* at **12-13.

Koontz's statement that all development in-lieu fees are simply a type of land use exaction undermines the Opinion's holding that development fees such as those in inclusionary housing ordinances can be reviewed under the deferential police power standard. This Court has applied higher standards of review to adjudicatory development fees, in *Ehrlich*, 12 Cal. 4th at 859 (*Nollan* and *Dolan* scrutiny apply to adjudicatory development fees imposed to replace recreational zoned land rezoned for development), and an intermediate standard of review to legislative development fees in *San Remo Hotel*. By making clear that all development in-lieu fees are exactions, *Koontz* indicates

at the least that these are the only two options for California courts to apply, and that in-lieu fees in California are always subject to the standards of either *Ehrlich* or *San Remo Hotel*.[13]

The Court is currently addressing a related question in the case of *Sterling Park v. City of Palo Alto*, No. S204771 (filed Aug. 27, 2012). In that case, the issue is whether an action challenging a city's imposition of conditions on a development project under a local ordinance is subject to the 90 day statute of limitations of the Subdivision Map Act, Gov't Code § 66499.37, or the 180 day statute of limitations of the Mitigation Fee Act, which is applied when challenging the imposition of "any fees, dedications, reservations, or other exactions." Gov't Code § 66020(a). The ordinance in question in the *Sterling Park* case is similar to the inclusionary housing ordinances considered in *City of Patterson* and the Opinion, and both the trial court and the court of appeal in *Sterling Park* ruled that these ordinances are not "other exactions" within the meaning of the Mitigation Fee Act.

In *Sterling Park*, this Court will resolve the statutory question of whether inclusionary housing ordinances impose exactions for purposes of judicial review under the Mitigation Fee Act. Granting review in this case will

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[13] *Koontz* also casts doubt on the continuing validity of this Court's ruling in *Erlich* that Culver City's "art in public places" fee was an ordinary aesthetic zoning requirement under the police power and not subject to heightened scrutiny. *Ehrlich*, 12 Cal. 4th at 886.

allow the Court to resolve the broader constitutional question of whether inclusionary housing ordinances are exactions under *San Remo Hotel* and *Koontz*. This Court should grant the Petition under Rule of Court 8.500(b)(1) to address the important question of law inherent in how *Koontz* applies to development in-lieu fees in California.

CONCLUSION

This Court should grant the Petition under Rule of Court 8.500(b)(1) to resolve the conflict created by the Opinion and *City of Patterson* over whether *San Remo Hotel* applies to inclusionary housing ordinances, and to settle the important legal question of how the United States Supreme Court's decision in *Koontz* applies to in-lieu development fees in California.

DATED: July 15, 2013.

Respectfully submitted,

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By _____
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CERTIFICATE OF COMPLIANCE

Pursuant to California Rule of Court 8.204(c)(1), I hereby certify that the foregoing PETITION FOR REVIEW is proportionately spaced, has a typeface of 13 points or more, and contains 4,227 words.

DATED: July 15, 2013.

_____

ANTHONY L. FRANÇOIS

DECLARATION OF SERVICE BY MAIL

I, Barbara A. Siebert, declare as follows:

I am a resident of the State of California, residing or employed in Sacramento, California. I am over the age of 18 years and am not a party to the above-entitled action. My business address is 930 G Street, Sacramento, California 95814.

On July 15, 2013, true copies of PETITION FOR REVIEW were placed in envelopes addressed to:

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which envelopes, with postage thereon fully prepaid, were then sealed and deposited in a mailbox regularly maintained by the United States Postal Service in Sacramento, California.

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed this 15th day of July, 2013, at Sacramento, California.

_____

BARBARA A. SIEBERT