

1 GREGORY BONETT (SBN 307436)
MARK ROSENBAUM (SBN 59940)
2 PUBLIC COUNSEL
610 South Ardmore Avenue
3 Los Angeles, California 90005
Tel: 213-385-2977 • Fax: 213-385-9089
4 E-mail: gbonett@publiccounsel.org
mrosenbaum@publiccounsel.org

5 KATHERINE J. GOMEZ MCKEON (SBN 318222)
6 ROBERT D. NEWMAN (SBN 86534)
WESTERN CENTER ON LAW & POVERTY
7 3701 Wilshire Boulevard, Suite 208
Los Angeles, California 90010
8 Tel: 213-487-7211 • Fax: 213-487-0242
E-mail: kmckeon@wclp.org
9 rnewman@wclp.org

10 DALE K. LARSON (SBN 266165)
SALVADOR E. PÉREZ (SBN 309514)
11 TESSA BAIZER (SBN 336028)
STRUMWASSER & WOOCHEER LLP
12 1250 6th Street, Suite 205
Santa Monica, California 90401
13 Tel: 310-576-1233 • Fax: 310-319-0156
E-mail: dl Larson@strumwooch.com
14 sperez@strumwooch.com
tbaizer@strumwooch.com

15 *(additional counsel continued on separate page)*

16
17 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
18 **FOR THE COUNTY OF LOS ANGELES – CENTRAL DISTRICT**

19 LA FORWARD INSTITUTE, a non-profit
20 organization; SYLVIA AROTH, an individual;
KATHLEEN L. COATES, an individual; and
21 GARY WILLIAMS, an individual,

22 Plaintiffs,

23 v.

24 CITY OF LOS ANGELES; LOS ANGELES
CITY COUNCIL; LOS ANGELES HOUSING
25 DEPARTMENT; LOS ANGELES
DEPARTMENT OF TRANSPORTATION;
26 and DOES 1 through 100, inclusive,

27 Defendants.
28

Case No. 24STCV17156

**PLAINTIFFS LA FORWARD
INSTITUTE, SYLVIA AROTH,
KATHLEEN L. COATES, AND GARY
WILLIAMS' OPPOSITION TO
DEFENDANT'S MOTION TO STAY**

Assigned for all purposes to:
Hon. Robert D. Broadbelt III

Dept.: 53
Date Action Filed: July 10, 2024
Hearing Date: June 11, 2025

1 JORGE DENEVE (SBN 198855)
MICHELE W. LAYNE (SBN 118395)
2 ELEANOR PHILLIPS (SBN 307121)
O'MELVENY & MYERS LLP
3 400 S. Hope Street, 19th Floor
Los Angeles, California 90071-2899
4 Tel: 213-430-6000
E-mail: jdeneve@omm.com
5 mlayne@omm.com
ephillips@omm.com
6

7 *Attorneys for Plaintiffs LA Forward Institute, Sylvia*
8 *Aroth, Kathleen L. Coates, and Gary Williams*

9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

TABLE OF CONTENTS

		Page
1	I. INTRODUCTION	5
2	II. STATEMENT OF FACTS	6
3	A. The Venice Dell Project	6
4	B. BOTC’s Denial of Use of Lot 731 for Development	7
5	C. The Writ Petitions	8
6	D. Motion to Stay	8
7	III. LEGAL STANDARD	9
8	IV. ARGUMENT	10
9	A. Rulings on the Writ Petitions Will Not Resolve the Issues in This Case	10
10	B. Plaintiffs and Others Have Significant Interests in This Litigation	
11	Proceeding Expeditiously	14
12	1. Plaintiffs will be harmed as a result of issuing a stay	14
13	2. California’s homelessness crisis implicates many third parties,	
14	including unhoused persons, California voters, and the public	16
15	C. The City Will Not Suffer Any Undue Burden if the Court Does Not Stay	
16	This Case	17
17	D. Judicial Resources Will Not Be Saved by Staying This Litigation	17
18	V. CONCLUSION	18
19		
20		
21		
22		
23		
24		
25		
26		
27		
28		

TABLE OF AUTHORITIES

Page(s)

Cases

1 *Asustek Comput. Inc. v. Ricoh Co.*,
2 No. C 07-01942 MHP, 2007 WL 4190689 (N.D. Cal. Nov. 21, 2007) 17

3 *Avant! Corp. v. Super. Ct.*,
4 79 Cal. App. 4th 878 (2000) 10, 14, 17

5 *Boeken v. Philip Morris USA, Inc.*,
6 48 Cal. 4th 788 (2010) 12

7 *Cal. Med. Assn. v. Aetna Health Cal., Inc.*,
8 14 Cal. 5th 1075 (2023) 14

9 *Cent. Delta Water Agency v. Dep’t Water Res.*,
10 69 Cal. App. 5th 170 (2021) 12

11 *Contreras-Velazquez v. Fam. Health Ctrs. San Diego, Inc.*,
12 62 Cal. App. 5th 88 (2011) 12

13 *Farmland Irrigation Co. v. Dopplmaier*,
14 48 Cal. 2d 208 (1957) 10, 17

15 *Freiberg v. City of Mission Viejo*,
16 33 Cal. App. 4th 1484 (1995) 9

17 *Gaines v. Fidelity Nat’l Title Ins. Co.*,
18 62 Cal. 4th 1081 (2016) 18

19 *In re D.P.*,
20 14 Cal. 5th 266 (2023) 12

21 *Intex Recreation Corp. v. Bestway USA, Inc.*,
22 No. LA CV19-08596 JAK, 2024 WL 4404982 (C.D. Cal. Sept. 6, 2024) 17

23 *Jackson v. County of Los Angeles*,
24 60 Cal. App. 4th 171 (1998) 13

25 *Lal v. Cap. One Fin. Corp.*,
26 No. 16-CV-06674-BLF, 2017 WL 282895 (N.D. Cal. Jan. 23, 2017) 15

27 *Landis v. N. Am. Co.*,
28 299 U.S. 248 (1936) 10

Pesquera del Pacifico v. Super. Ct.,
89 Cal. App. 2d 738 (1949) 17

Riverside Cnty. Transp. Comm’n v. S. Cal. Gas Co.,
54 Cal. App. 5th 823 (2020) 12

Step by Step, Inc. v. City of Ogdensburg,
76 F. Supp. 3d 112 (N.D.N.Y. 2016) 15

Valle del Sol Inc. v. Whiting,
732 F.3d 1006 (9th Cir. 2013) 14

Statutes

Cal. Gov. Code 54950 *et seq.* 8

Code Civ. Proc. § 526a 15

Code Civ. Proc. §§ 860-870.5 13

Gov’t Code § 8899.50(b) 13

1 **I. INTRODUCTION**

2 Just as with the Venice Dell Project (the “Project”), the objective of Defendant City of
3 Los Angeles, Los Angeles City Council (“City Council”), Los Angeles Housing Department
4 (“LAHD”), and Los Angeles Department of Transportation (“LADOT”) (collectively, the “City”
5 or “Defendant”) in bringing this stay motion (the “Motion”) is to further delay and obstruct
6 construction of the Project until it becomes infeasible for the two non-profit developers, Venice
7 Community Housing and Hollywood Community Housing Corporation (together, the
8 “Developers”). The City previously delayed this lawsuit for five months with its anti-SLAPP
9 motion, which this Court denied on February 5, 2025. The Court should deny this latest attempt
10 at delay.

11 The City asks the Court to stay this lawsuit for an indefinite period of time “pending the
12 determination” of two recently filed writ petitions.¹ Brought by different parties, the writ
13 petitions allege different and far fewer causes of action than Plaintiffs’ Complaint. The writ
14 petitions focus only on the events of a single day—the December 10, 2024 vote by the City’s
15 Board of Transportation Commissioners (“BOTC”)—rather than addressing the actions of a
16 number of City officials and employees over several years. The outcomes of the writ petitions—
17 regardless of who prevails—will not resolve or even substantially affect the claims in this lawsuit.

18 Given that the writ petitions will not significantly affect this case, the factors in analyzing
19 a request for a stay heavily favor permitting this litigation to continue as scheduled. First, there is
20 little risk of inconsistent judgments or of this action being mooted, even if the City and BOTC
21 were to prevail in the writ petitions. Second, Plaintiffs and others, particularly unhoused persons
22 and California voters, have significant interests in this action proceeding expeditiously. Third,
23 the City’s burden in continuing to litigate this action as the writ petitions progress is minimal,
24 especially when compared to the harms of imposing a stay. Fourth, staying this action will not
25 save judicial resources. The Court should deny this Motion.

26
27
28

¹ Declaration of Ilse C. Scott in Supp. of Stay Mot. (“Scott Decl.”), Exs. C and D.

1 **II. STATEMENT OF FACTS**

2 **A. The Venice Dell Project**

3 Homelessness and the dire shortage of affordable housing are matters of statewide and
4 citywide concern. In 2016, the City selected the Developers to develop a 100% affordable and
5 supportive housing project at Parking Lot 731 (“Lot 731”) in the Venice area of Council
6 District 11. Complaint (“Compl.”) ¶¶ 49-52. Between 2017 and 2022, the Project went through
7 the City’s approval processes, culminating in the City Council unanimously voting in June 2022
8 to approve the Project and authorize LAHD to sign a Disposition and Development Agreement
9 (“DDA”) with the Developers. Compl. ¶¶ 52-56, 67-69; Declaration of Rebecca Dennison in
10 Supp. of Opp. to Anti-SLAPP Mot. (“Dennison Decl.”) ¶¶ 9-10. From June 2022 to February
11 2023, the Developers continued to work with several City departments to complete the remaining
12 ministerial approvals for the Project. Compl. ¶¶ 53-56, 67-69; Dennison Decl. ¶ 13; Declaration
13 of Weston Rowland in Supp. of Opp. to Anti-SLAPP Mot. (“Rowland Decl.”) ¶¶ 8-9, 13;
14 Declaration of Azeen Khanmalek in Supp. of Opp. to Anti-SLAPP Mot. (“Khanmalek Decl.”) ¶¶
15 4, 8.

16 In February 2023, however, progress on the Project ground to a halt when newly elected
17 Councilmember Traci Park and City Attorney Hydee Feldstein Soto began obstructing the
18 Project’s advancement. *See, e.g.*, Compl. ¶ 69; Rowland Decl. ¶¶ 11, 14, 16-17, 19, 21;
19 Khanmalek Decl. ¶¶ 8-9; Dennison Decl. ¶¶ 17-18, 34. These acts of obstruction represented a
20 sharp departure from the City’s historical and typical affordable housing development process.
21 Declaration of Jackson Loop in Supp. of Opp. to Anti-SLAPP Mot. (“Loop Decl.”) ¶¶ 2, 12-45
22 (describing affordable housing development process); Khanmalek Decl. ¶¶ 6-7, 10-11; Rowland
23 Decl. ¶ 20. A documented historical pattern of discriminatory animus in the affected
24 neighborhood motivated the acts of Councilmember Park and City Attorney Feldstein Soto.
25 Rowland Decl. ¶¶ 5, 10, 12, 15, 20 (showing coordination of opposition with Councilmember
26 Park); Loop Decl. ¶¶ 52-58, 61-63; Declaration of Benjamin Henwood in Supp. of Opp. to Anti-
27 SLAPP Mot. ¶¶ 10-11, 16.

1 **B. BOTC’s Denial of Use of Lot 731 for Development**

2 The efforts to obstruct the Project include actions at a recent meeting of BOTC. In the
3 hastily convened meeting on December 10, 2024, BOTC voted to deny transferring Lot 731 to the
4 Developers. Scott Decl., Ex. B. This December 10 meeting took place even though BOTC had a
5 regular meeting scheduled for December 12, 2024, just two days later. But after the Coastal
6 Commission unexpectedly scheduled a meeting for December 11, 2024 to vote on whether to
7 approve the Project, BOTC posted an agenda for a *special* meeting to consider whether Lot 731—
8 the lot that the City Council had approved for the Project—should be used for the Project or for
9 some other purpose. Declaration of Katherine J. Gomez McKeon (“McKeon Decl.”) ¶ 2, Ex. A.
10 The special meeting was noticed for December 10, one day *before* the Coastal Commission’s
11 noticed meeting. *See id.*

12 In a report accompanying the agenda for the meeting, LADOT advised BOTC to deny use
13 of Lot 731 for the Project, echoing City Attorney Feldstein Soto’s positions, and urged the Board
14 to consider other sites for the Project. Scott Decl., Ex. A. At the meeting, the Commissioners
15 discussed turning Lot 731 into a “mobility hub,” and siting the Project on nearby Lot 701, which
16 cannot be used for the Project given its smaller size and irregular shape. McKeon Decl. ¶ 3,
17 Ex. B at 72-73. Even if feasible, the move to Lot 701 would potentially add years of delay to the
18 Project. The BOTC vote would effectively force the Developers, who have already gone through
19 extensive processes to get the permits to build housing on Lot 731, to start over by putting the
20 Project in the position it was in in 2016. BOTC essentially sought to undo the Project after years
21 of City review and approvals and court rulings upholding those approvals. Dennison Decl. ¶¶ 34-
22 37; Rowland Decl. ¶ 6 (showing coordination between the BOTC recommendation and
23 Councilmember Park). The City has identified no previous instances in which BOTC has
24 attempted to block the transfer or lease of a City parking lot in this way. Declaration of Dale
25 Larson in Supp. of Opp. to Stay Mot. (“Larson Decl.”) ¶ 7.

26 The next day, on December 11, 2024, the Coastal Commission unanimously approved an
27 amended permit and Land Use Plan for Venice Dell. Dennison Decl. ¶ 33. At the meeting, an
28 Assistant City Attorney informed the Coastal Commission that BOTC’s vote had made the

1 Project’s viability uncertain. McKeon Decl. ¶ 4.

2 On January 7, 2025, Councilmember Park filed a motion to ask the City Administrative
3 Office to write a report determining the feasibility of creating housing on Lot 701 and turning Lot
4 731 into a mobility hub. *Id.* ¶ 5, Ex. C. While citing a need for urgency to build affordable
5 housing in the City, Councilmember Park ignored that moving the Project to Lot 701 would result
6 in years of delay and further impede the construction of affordable housing. *Id.* The City Council
7 Transportation Committee approved the motion on February 12, 2025. *Id.* ¶ 5, Ex. D.

8 C. The Writ Petitions

9 BOTC’s actions prompted the filing of the writ petitions. The Developers filed one
10 petition on March 7, 2025. Scott Decl. ¶ 3, Ex. C. They seek writs of mandate vacating BOTC’s
11 December 10, 2024 actions on the grounds that BOTC’s actions were *ultra vires* and procedurally
12 arbitrary and capricious. *Id.* at Ex. C, ¶¶ 46-73. People Organized for Westside Renewal
13 (“POWER”) filed the other petition on March 19, 2025. *Id.* ¶ 5, Ex. D. POWER seeks a writ of
14 mandate compelling the Board to nullify its December 10, 2024 actions and set the matter for a
15 public meeting with a properly noticed agenda. *Id.* at Ex. D, ¶¶ 33-29. POWER argues that
16 BOTC’s December 10, 2024 meeting violated the Brown Act (Cal. Gov. Code 54950 *et seq.*) by
17 being improperly noticed and therefore all actions taken at the meeting are void. Both writ
18 petitions are pending.

19 On April 11, 2025, the City filed and served on Plaintiffs a Notice of Related Case
20 regarding the writ petitions. McKeon Decl. ¶ 7, Ex. E. On April 18, Plaintiffs filed an opposition
21 to the City’s related case notice, arguing that this case and the writ petitions concern substantively
22 different factual and legal issues. *Id.* ¶ 8, Ex. F. A decision on the notice is still pending as of the
23 filing of this Opposition.

24 D. Motion to Stay

25 Meanwhile, the City first notified Plaintiffs of its intention to file this Motion at 8:59 am
26 on April 11, 2025, adding an ultimatum that Plaintiffs agree to the stay by 3:00 p.m. *that same*
27 *day*. Larson Decl. ¶ 5, Ex. 1. Disregarding Plaintiffs’ counsel’s request for time to confer with
28 their clients and refusing to even provide copies of the writ petitions, the City filed its Motion less

1 than ten minutes after 3 p.m. on April 11. *Id.* ¶ 5, Exs. 1-2. The City has subsequently argued
2 that the pending Motion is reason to postpone discovery, asserting repeatedly that it will not
3 answer any of Plaintiffs’ discovery requests until after this Motion is heard. *Id.* ¶ 6. Most
4 recently, on May 20, the City served discovery responses which provided no substantive answers
5 to Plaintiffs’ requests and stated that it will not provide answers before this Motion is heard. *Id.*
6 Yet the City has **not** correspondingly raised the Motion as grounds to postpone discovery initiated
7 by the City (e.g., responding to document requests, requests for admission and Form
8 Interrogatories). *Id.*

9 Throughout this litigation, Plaintiffs have diligently engaged in discovery. Plaintiffs
10 served Form Interrogatories on August 28, 2024, and Requests for Production of Documents
11 (“RFPs”) on August 19, 2024, April 18, 2025, and May 28, 2025. *Id.* ¶ 2. The City, in turn,
12 served Form Interrogatories, RFPs, and Requests for Admissions (“RFAs”) on March 4, 2025.
13 *Id.* Whereas the City still has not produced any documents in response to Plaintiffs’ document
14 requests, which were served nine months ago, Plaintiffs produced more than 112 *thousand* pages
15 of documents approximately two months after receiving the City’s document requests. *Id.* ¶ 2.

16 Plaintiffs have also deposed three people for this case: Juliet Oh, Senior City Planner in
17 the Los Angeles Department of Planning, on November 21, 2024; Maya Abood, Financial
18 Development Officer in the Los Angeles Housing Department, on December 5, 2024; and Ann
19 Sewill, former General Manager at the Los Angeles Housing Department, on April 24, 2025. *Id.*
20 ¶ 3. On January 17, 2025, after learning that City officials may have deleted electronic
21 communications relevant to this case, Plaintiffs sent a second preservation letter to the City’s
22 counsel asking them to preserve documents relevant to this lawsuit. *Id.* ¶ 4. On February 26,
23 2025, Plaintiffs served a notice for the Person Most Qualified from the City’s Information
24 Technology Agency to be deposed on issues related to disappearing communications. *Id.* That
25 deposition was recently scheduled for June 24, 2025. *Id.*

26 **III. LEGAL STANDARD**

27 “Trial courts generally have the inherent power to stay proceedings in the interests of
28 justice and to promote judicial efficiency.” *Freiberg v. City of Mission Viejo*, 33 Cal. App. 4th

1 1484, 1489 (1995). When deciding whether to issue a stay, courts generally consider (1) the harm
2 to the non-moving party and others which may result from issuing a stay, (2) the burden on the
3 moving party if the stay is not issued, and (3) the convenience of the court in its case management
4 and use of judicial resources. *See Avant! Corp. v. Super. Ct.*, 79 Cal. App. 4th 876, 885-89
5 (2000) (weighing these factors and affirming denial of motion to stay); *see also Landis v. N. Am.*
6 *Co.*, 299 U.S. 248, 254-55 (1936) (The movant for a stay “must make out a clear case of hardship
7 or inequity in being required to go forward, if there is even a fair possibility that the stay for
8 which he prays will work damage to some one else.”).

9 As part of assessing the burden on the moving party if a stay is not issued, courts consider
10 the risk that the present case and a separate case will result in inconsistent judgments or that the
11 separate case will moot the present case. *See Farmland Irrigation Co. v. Dopplmaier*, 48 Cal. 2d
12 208, 215 (1957). But even if inconsistent judgments or mootness are possible, whether to grant or
13 deny a stay is “within the sound discretion of the trial court.” *Id.* In *Farmland Irrigation*, the
14 court affirmed the trial court’s denial of the defendant’s motion for a stay because the case the
15 defendant pointed to as creating a risk of inconsistent judgments had different parties and
16 different issues. *Id.*

17 **IV. ARGUMENT**

18 The City’s Motion should be denied in its entirety. The City is not at risk of inconsistent
19 judgments or having to litigate a case that may be mooted. The delay from staying the case,
20 however, would significantly harm Plaintiffs and others parties. Further, proceeding in this case
21 will not expose the City to any undue burdens and staying the case will not save judicial
22 resources.

23 **A. Rulings on the Writ Petitions Will Not Resolve the Issues in This Case.**

24 The rulings on the writ petitions do not risk inconsistent judgments and will not moot this
25 action. In fact, the series of actions resulting in BOTC’s vote provides further evidence that City
26
27
28

1 officials are acting in bad faith regarding the Project, as alleged in the Complaint.²

2 This case and the writ petitions do not pose a risk of inconsistent judgments because each
3 focuses on different harms. *See Farmland Irrigation Co.*, 48 Cal. 2d at 215-16 (affirming the trial
4 court’s denial of a stay in part because “all the issues in the present action are not involved in the
5 [other] action”). The instant case alleges that, beginning in February 2023, City officials have:
6 unlawfully obstructed and delayed the Project in a manner that discriminates against persons of
7 color and persons with disabilities (First and Second Causes of Action); disapproved of the
8 Project because of its intended occupants (Third Cause of Action); imposed different
9 requirements on the Project because of its intended funding sources (Fourth Cause of Action);
10 taken actions that are materially inconsistent with the City’s obligation to affirmatively further
11 fair housing (Fifth Cause of Action); and unlawfully delegated City Council powers and duties to
12 a City Councilmember and the City Attorney (Sixth Cause of Action). *See* Compl. ¶¶ 90-116. In
13 contrast, the Developers’ writ petition concerns only whether BOTC’s actions at its special
14 meeting were *ultra vires* and procedurally arbitrary and capricious, Scott Decl., Ex. C, ¶¶ 59-68,
15 and POWER’s writ petition concerns only whether BOTC violated the Brown Act by providing
16 defective notice of the special meeting. Scott Decl., Ex. D, ¶¶ 59-68.

17 Even assuming for argument’s sake that the Writs departments were to find on behalf of
18 BOTC and the City, those decisions would not resolve Plaintiffs’ claims addressing the
19 unlawfully discriminatory and obstructive conduct in which the City engaged. To give just one
20 example, the Complaint alleges that starting in February 2023, Councilmember Park has
21 obstructed the Project because a vocal minority of Venice residents complained that it would
22 “irrevocably change the character of the neighborhood” and “turn [Venice] back into a low
23 income neighborhood,” which is coded language for discriminatory animus. Compl. ¶¶ 58-59. In
24

25 ² The City’s unusual BOTC vote is the latest example of the City delaying and obstructing the
26 Project in violation of state law as alleged in the Complaint. With this Motion, the City adopts
27 the position that its illegal actions have now fully killed the project, making the lawsuit’s claims
28 moot. In fact, BOTC’s unusual action only strengthens Plaintiffs’ claims, and they must be fully
and timely litigated. When the City states in the Introduction to its Motion that “Plaintiffs’
Complaint has been overtaken by events,” it fails to note that the “events” are the City’s
continued obstruction and delay at the heart of this case.

1 contrast, the writ petitions concern the validity of BOTC's actions at its December 10, 2024
2 meeting. The writ petitions simply do not address the critical claim in this case: whether the City
3 has engaged in discriminatory conduct. No decision of the Writs departments will resolve this
4 claim or any of Plaintiffs' other claims in the instant case.

5 The City also could not use the rulings in the writ petitions to dispose of any portion of
6 Plaintiffs' claims because the City cannot satisfy the requirements of the collateral estoppel
7 doctrine. Collateral estoppel requires that "(1) [a] claim or issue raised in the present action is
8 identical to a claim or issue litigated in a prior proceeding; (2) the prior proceeding resulted in a
9 final judgment on the merits; and (3) the party against whom the doctrine is being asserted was a
10 party or in privity with a party to the prior proceeding." *Boeken v. Philip Morris USA, Inc.*, 48
11 Cal. 4th 788, 797 (2010). None of these requirements are met. As addressed above, the factual
12 and legal issues in this action and the writ petitions are distinct. It is also unlikely that the writ
13 petitions will become final for months or years, particularly if the petitioners elect to appeal any
14 adverse determinations. *See Contreras-Velazquez v. Fam. Health Ctrs. San Diego, Inc.*, 62 Cal.
15 App. 5th 88, 103 (2021) ("An adjudication is not final 'if an appeal is pending or could still be
16 taken.'" (citing *Riverside Cnty. Transp. Comm'n v. S. Cal. Gas Co.*, 54 Cal. App. 5th 823, 838
17 (2020)). Finally, Plaintiffs are not party to either of the writ petitions, and Plaintiffs are not in
18 privity with the writ petitioners. *Cent. Delta Water Agency v. Dep't Water Res.*, 69 Cal. App. 5th
19 170, 209 (2021) (Privity requires that (a) the parties in the other action have the same or
20 sufficiently similar interests to the parties in the present action and (b) the parties in the other
21 action adequately represent those interests). Petitioners do not share nor adequately represent
22 Plaintiffs' interests in holding the City accountable for discrimination. Accordingly, the writ
23 petitions cannot collaterally estop Plaintiffs in the instant case.

24 The writ petitions also *cannot* moot this action. A case becomes moot when events render
25 it impossible for a court to grant the plaintiff any effective relief. *In re D.P.*, 14 Cal. 5th 266, 276
26 (2023). Plaintiffs have complained of ongoing harms caused by the City's actions obstructing the
27 Project (actions similar to the BOTC's December vote), and these harms will be redressable by
28 the relief Plaintiffs seek even if the City prevails in the writ proceedings.

1 The City, however, argues that the writ proceedings may moot this action if the Writs
2 departments determine that the “BOTC’s denial was proper and cannot be undone.” Motion at
3 11; *see also id.* at 3 (“[T]he Los Angeles City Council did not exercise its authority pursuant to
4 Section 245 of the City Charter to veto the Board’s action to deny the use of Lot 731 for the
5 Proposed Project, resulting in the Board’s action becoming final.”). But the City does not explain
6 how or why the Writs departments would ever rule on the question of whether BOTC’s actions
7 “cannot be undone.” The Writs departments are only being asked to decide whether BOTC’s
8 actions were unlawful in certain respects, such as potential violations of the Brown Act. Neither
9 writ petition is the equivalent of a validation action where a public agency seeks a judicial
10 determination of the validity of a public agency’s action with the judgment being binding and
11 conclusive on everyone. *See* Code Civ. Proc. §§ 860-870.5. BOTC also has the power to
12 overturn its prior decisions, *see, e.g.*, McKeon Decl. ¶ 9, Ex. G (rescinding Board Order 243), and
13 will retain that power with respect to the December 10, 2024 vote even if it prevails on the writ
14 petitions. Additionally, as the City itself argued last year, “[t]he disposition of the City’s real
15 property, including parking places, intended to be for affordable housing development purposes is
16 delegated to LAHD,” not to LADOT, of which BOTC is a part. *See* concurrently-filed Request
17 for Judicial Notice, Ex. 1 at 14-15.³ Thus, if this Court rules against the City, there are multiple
18 lawful avenues for the City to undo or reverse BOTC’s previous decision. This Court can order
19 the City to pursue those avenues. *See* Gov’t Code § 8899.50(b) (“[A] public agency shall
20 administer its programs and activities relating to housing and community development in a
21 manner to affirmatively further fair housing.”).

22 In sum, there would be no inconsistency if this Court finds that the City has been
23 unlawfully obstructing the Project and the Writs departments separately determine that BOTC’s

24 ³ Having prevailed on this position in the case before Judge Chalfant last year, the City should be
25 barred by the doctrine of judicial estoppel from now arguing in this case and the two writ
26 petitions that BOTC has the authority to deny approval for the Project. *See, e.g., Jackson v.*
27 *County of Los Angeles*, 60 Cal. App. 4th 171, 183 (1997) (judicial estoppel “should apply when:
28 (1) the same party has taken two positions; (2) the positions were taken in judicial or quasi-
judicial administrative proceedings; (3) the party was successful in asserting the first position
(i.e., the tribunal adopted the position or accepted it as true); (4) the two positions are totally
inconsistent; and (5) the first position was not taken as a result of ignorance, fraud, or mistake.”).

1 actions in its December 10, 2024 meeting did not overstep or abuse its power and that the special
2 meeting was not improperly called. Nor would the writ petitions moot this case. This Court can
3 grant Plaintiffs the relief they seek regardless of the disposition of the writ petitions.

4 **B. Plaintiffs and Others Have Significant Interests in This Litigation Proceeding**
5 **Expediently.**

6 In deciding the Motion, the Court should weigh the harms a stay would cause to Plaintiffs
7 and others. *See Avant! Corp*, 79 Cal. App. 4th at 887 (affirming the trial court’s denial of stay in
8 part because “there is hardly a question of the interest of [the non-movant] in proceeding
9 expeditiously with this litigation or any particular aspect of it, and the potential prejudice to [the
10 non-movant] of a delay”). Here, the writ petitions proceedings and any appeals may take years to
11 play out. During this time Plaintiff LA Forward’s mission will continue to be thwarted; the
12 money of Los Angeles taxpayers such as Plaintiffs Sylvia Aroth, Kathleen Coates, and Gary
13 Williams will continue to be wasted as the City continues to unlawfully obstruct the Project;
14 unhoused persons who would otherwise live in the Project will remain unhoused; and the express
15 will of California and Los Angeles voters to build more affordable housing will continue to be
16 defied.

17 **1. Plaintiffs will be harmed as a result of issuing a stay.**

18 This Motion is simply a continuation of the City’s attempts to unjustifiably delay
19 Plaintiffs’ efforts to litigate this action and obtain relief. Plaintiffs have identified multiple
20 instances of the City’s persistent, unjustified, and illegal attempts to obstruct the Project. *See*
21 *Compl.* ¶¶ 68-73. Though Plaintiffs’ significant interests in the expeditious resolution of this
22 litigation weigh heavily against a stay, the City’s Motion ignores the harm Plaintiffs will continue
23 to suffer if this action is stayed.

24 The City’s ongoing obstruction of the Project thwarts Plaintiff LA Forward in the
25 fulfillment of its mission to make local government accessible and to advance government
26 accountability, and needlessly diverts LA Forward’s resources. *Compl.* ¶ 11; *see Cal. Med. Ass’n*
27 *v. Aetna Health Cal., Inc.*, 14 Cal. 5th 1075, 1082-1083, 1088-1096 (2023) (An organization has
28 “suffered injury in fact” and “lost money or property as a result of [] unfair competition” when

1 the organization diverts resources to respond to perceived unfair competition that thwarts its
2 “bona fide, preexisting mission.”). Indeed, strains on nonprofit organizations’ ability to fulfill
3 their missions constitute “irreparable harm” justifying the grant of a preliminary injunction. *See,*
4 *e.g., Valle del Sol Inc. v. Whiting*, 732 F.3d 1006, 1029 (9th Cir. 2013) (Ninth Circuit found that
5 organizations “forced to divert staff and resources to educating their members” about Arizona
6 immigration law made a sufficient showing of “ongoing harms to their organizational missions”
7 to establish a likelihood of irreparable harm); *Step by Step, Inc. v. City of Ogdensburg*, 176 F.
8 Supp. 3d 112, 135 (N.D.N.Y. 2016) (preliminary injunction granted because the city’s actions had
9 deprived the plaintiff not-for-profit corporation “of its ability to pursue its mission [to] provide
10 housing and services to its mentally ill clients and this denial constitutes irreparable harm”).

11 The City’s proposed stay follows years long delay tactics, tactics that constitute illegal and
12 wasteful expenditure of taxpayer dollars, by which Plaintiffs Sylvia Aroth, Kathleen Coates, and
13 Gary Williams, as well as other taxpayers within the City, have been and continue to be harmed.
14 *See* Code Civ. Proc. § 526a.

15 A stay will also prejudice Plaintiffs’ efforts to gather evidence and risk critical evidence
16 being lost. “[W]ith passing time, there remains a risk of lost and destroyed evidence, as well as
17 fading witness memories.” *Lal v. Cap. One Fin. Corp.*, No. 16-CV-06674-BLF, 2017 WL
18 282895, at *3 (N.D. Cal. Jan. 23, 2017) (denying motion to stay despite the possibility of
19 inconsistent judgments in part because of the risk of lost evidence). The City has even used the
20 Motion to excuse further delay in discovery. The City has repeatedly cited this Motion in
21 discussions with Plaintiffs’ counsel to justify its continued refusal to engage in discovery. *See*
22 Larson Decl. ¶ 6. Whereas Plaintiffs have produced 112,389 documents to date in response to the
23 City’s requests, the City has yet to produce a single document to Plaintiffs in response to requests
24 served *nine months ago*, in August 2024. The City’s continued delays impact Plaintiffs’ ability to
25 prepare for mediation, which must be completed no later than August 29, 2025. Maintaining the
26 current discovery schedule will additionally allow the parties to remain on track for trial as
27 currently scheduled for July 29, 2026. Staying the action, on the other hand, could put that trial
28 date at risk, further compounding the harm suffered by Plaintiffs as a result of the City’s delays.

1 **2. California’s homelessness crisis implicates many third parties,**
2 **including unhoused persons, California voters, and the public.**

3 The City does not acknowledge, much less grapple with, the substantial and wide-ranging
4 interests that would be adversely affected by a stay—interests that extend beyond the parties to
5 this action and reach the public at large. As this Court found, “this action, if successful, would
6 (1) enforce an important right affecting the public interest . . . and (2) confer a significant benefit
7 on the general public in preventing discriminatory housing practices by a public entity and the
8 class of persons that are affected by the alleged housing discrimination committed by Defendant.”
9 Feb. 6, 2025 Minute Order Denying Anti-SLAPP Mot. at 6.

10 ***Unhoused Persons.*** As set forth in the Complaint, the City is in the throes of a
11 devastating housing and homelessness crisis—over 45,000 people in the City of Los Angeles
12 experienced homelessness in 2024 alone. Compl. ¶ 28. For years, voters have demanded that
13 elected officials find solutions. *Id.* By intentionally obstructing the development of the Project,
14 the City is engaged in unlawful housing discrimination that exacerbates this crisis, which
15 warrants timely resolution. Granting a stay would not only delay critical steps toward addressing
16 the homelessness crisis, but would also prolong the harmful effects of housing discrimination in
17 the City, and would cause irreparable harm to individuals who may ultimately be approved to live
18 in the Project’s housing.

19 ***California Voters and the Public.*** Voters in California and Los Angeles have
20 consistently supported and approved ballot measures that allocate funding for affordable and
21 permanent housing projects like the Project. *See* Compl. ¶¶ 34-39. For instance, in March 2017,
22 Los Angeles County voters passed Measure H, which increased the county sales tax to fund
23 critical homelessness services. *Id.* ¶ 37. In addition, over 2,000 community members and groups
24 from across the City have submitted letters in support of the Project, recognizing that there is a
25 limited supply of affordable housing in Venice and the City’s coastal zone. Granting a motion to
26 stay would directly contravene the public’s longstanding efforts to fight the homelessness crisis.

27 This litigation makes serious allegations that City officials have engaged in discrimination
28 and unlawful obstruction of affordable housing by allowing vocal opposition exhibiting virulent

1 animus against persons of color, persons with disabilities, and persons receiving public assistance
2 to motivate their practices, decision making, and policies, thereby delaying and obstructing the
3 Project and perpetuating segregation in the City of Los Angeles. *See e.g. id.* ¶¶ 57-63.
4 Government discrimination is unlawful, and the public deserves to know as soon as possible the
5 full extent to which the City may be engaging in discriminatory housing practices. Granting this
6 motion would only prolong the period of uncertainty and deprive the parties and the broader
7 public of timely answers, accountability, and transparency.

8 **C. The City Will Not Suffer Any Undue Burden if the Court Does Not Stay This**
9 **Case.**

10 Besides failing to show a risk of inconsistent judgments or mootness, the City has made
11 no showing that it will incur significant expenses if litigation proceeds, nor that this action and the
12 writ petitions involve significant duplication of efforts. *See Intex Recreation Corp. v. Bestway*
13 *USA, Inc.*, No. LA CV19-08596 JAK, 2024 WL 4404982, at *5 (C.D. Cal. Sept. 6, 2024)
14 (denying stay in part because the movant did not show “significant resources would be expended
15 by allowing discovery to proceed”); *ASUSTek Comput. Inc. v. Ricoh Co.*, No. C 07-01942 MHP,
16 2007 WL 4190689, at *2 (N.D. Cal. Nov. 21, 2007) (denying stay in part because allowing the
17 action to proceed “will involve minimal duplication” of efforts). The City therefore has not
18 shown it will suffer any undue burden if this matter continues while the writ petitions are
19 litigated.

20 **D. Judicial Resources Will Not Be Saved by Staying This Litigation.**

21 The final factor is whether judicial time or resources would be saved by a stay. *See*
22 *Avant! Corp.*, 79 Cal. App. 4th at 888. They would not. As outlined above, the writ proceedings
23 will not collaterally estop this action or render it moot. Thus, a stay would only unnecessarily
24 delay resolution of this case, further harming Plaintiffs and others.

25 The Court “should also consider . . . the stage to which the proceedings in the other court
26 have already advanced.” *Farmland Irrigation Co.*, 48 Cal. 2d at 215; *see also Pesquera del*
27 *Pacifico v. Super. Ct.*, 89 Cal. App. 2d 738, 741 (1949) (denial of writ petition to stay trial court
28 proceedings in part because those proceedings were more advanced than proceedings in the

1 related action). Despite the City’s consistent efforts to slow discovery to a crawl, this action is
2 further along than the writ proceedings and may conclude before the writ proceedings do, which
3 weighs against imposing a stay here.

4 A stay would unnecessarily delay discovery, which must proceed expeditiously to
5 facilitate resolution in light of the approaching deadlines for mediation (August 29, 2025),
6 summary judgment and adjudication (April 7, 2026), and trial (July 29, 2026). Because the writ
7 petitions cannot moot this action, these proceedings will ultimately take place regardless of the
8 outcomes of the writ petitions and should not be further delayed by a stay. Given the City’s
9 delays in complying with Plaintiffs’ discovery requests to date, *see* Larson Decl. ¶ 2, discovery
10 motion practice is likely, meaning that time is of the essence so that any motions can be heard and
11 briefed sufficiently in advance of these deadlines.⁴

12 **V. CONCLUSION**

13 For the foregoing reasons, the Court should deny the Motion in its entirety. Alternatively,
14 if the Court decides some proceedings should be stayed until the writ proceedings conclude, then
15 the Motion should be denied as to any stay of discovery.

16
17 Dated: May 29, 2025

Respectfully Submitted,

18 PUBLIC COUNSEL
19 Gregory Bonett
Mark Rosenbaum

20 WESTERN CENTER ON LAW & POVERTY
21 Katherine J. Gomez McKeon
Robert Newman

22 STRUMWASSER & WOOCHER LLP
23 Dale K. Larson
Salvador E. Pérez
24 Tessa Baizer

25 _____
26 ⁴ If this Court grants a stay, Plaintiffs request that it be denied at least as to discovery. The Court
27 has discretion to stay proceedings in their entirety or in a more limited way. *See Gaines v.*
28 *Fidelity Nat’l Title Ins. Co.*, 62 Cal. 4th 1081, 1094 (2016). Where less drastic means exist to
protect a movant’s interests, a complete stay of the proceedings should be avoided. *See id.*
(noting that the lower court had ordered a stay, except that mediation and discovery would
proceed).

