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ALAMEDA COUNTY
AUG 20 2021
CLERK OF THE SUPERIOR COURT
By *[Signature]* Deputy

17 Attorneys for Petitioners Make UC A Good Neighbor and
18 The People's Park Historic District Advocacy Group

19 **IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA**
20 **IN AND FOR THE COUNTY OF ALAMEDA**

21 MAKE UC A GOOD NEIGHBOR, a California
22 nonprofit public benefit corporation; and THE
23 PEOPLE'S PARK HISTORIC DISTRICT
24 ADVOCACY GROUP, a California nonprofit
25 public benefit corporation,

26 Petitioners,

27 vs.

28 THE REGENTS OF THE UNIVERSITY OF
CALIFORNIA; MICHAEL V. DRAKE, in his
capacity as President of the University of
California; UNIVERSITY OF CALIFORNIA,
BERKELEY; CAROL T. CHRIST, in her capacity
as Chancellor of the University of California,
Berkeley; and DOES 1 through 20,

Respondents.

Case No. **21110142**
PETITION FOR WRIT OF MANDATE
[California Environmental Quality Act]

1 Petitioners Make UC A Good Neighbor and The People's Park Historic District Advocacy Group
2 allege:

3 1. On or about July 22, 2021, Respondent Regents of the University of California certified a Final
4 Environmental Impact Report (FEIR) prepared for the 2021 Long Range Development Plan for the UC
5 Berkeley campus (LRDP), Housing Project # 1, and Housing Project # 2. The LRDP, Housing Project #
6 1 and Housing Project # 2 are collectively referred to herein as the "Project."

7 2. On or about July 22, 2021, Respondent Regents of the University of California also approved the
8 LRDP and Housing Project # 1. Petitioners are informed and believe that Respondents have not
9 approved Housing Project # 2 as of the date of this writing. To the extent Respondents approved
10 Housing Project # 2 by the date of this writing, this Petition also challenges that approval.

11 3. This action challenges Respondents' approval of the Project on grounds the approval violates the
12 California Environmental Quality Act (CEQA).

13 4. Education Code section 67504 provides that "The Legislature further finds and declares that the
14 expansion of campus enrollment and facilities may negatively affect the surrounding environment.
15 Consistent with the requirements of the California Environmental Quality Act (CEQA), it is the intent of
16 the Legislature that the University of California sufficiently mitigate significant off-campus impacts
17 related to campus growth and development."

18 5. Public Resources Code section 21080.09, subdivision (b) requires that "Environmental effects
19 relating to changes in enrollment levels shall be considered for each campus or medical center of public
20 higher education in the environmental impact report prepared for the long range development plan for
21 the campus or medical center." Public Resources Code section 21080.09, subdivision (d) requires that
22 Respondents and the University of California, Berkeley "consider the environmental impact of academic
23 and enrollment plans" pursuant to CEQA and "that any such plans shall become effective for a campus
24 ... only after the environmental effects of those plans have been analyzed" as required by CEQA.

24 **Parties**

25 6. Plaintiff Make UC A Good Neighbor is a California nonprofit public benefit corporation formed
26 to provide education and advocacy related to the impacts of UC Berkeley on the surrounding
27 environment. Plaintiff's founders, directors, supporters, patrons, contributors, advisors, and members
28 live in the area affected by the Project's environmental effects, and will suffer injury from adverse

1 environmental impacts caused by this Project if the legal violations alleged herein are not remedied.
2 Plaintiff was formed and brings this action to represent and advocate for the beneficial interests of its
3 founders, directors, supporters, patrons, contributors, advisors, and members in obtaining relief from the
4 legal violations alleged herein and to improve quality of life, protect the environment and implement
5 best planning practices in connection with UC Berkeley's increases in student enrollment and expansion
6 of infrastructure.

7 7. Plaintiff The People's Park Historic District Advocacy Group is a California nonprofit public
8 benefit corporation formed to establish a People's Park Historic District to protect, preserve, and
9 enhance public understanding of the significant architectural and cultural landmarks and historic events
10 unique to the Southside campus area of the University of California, Berkeley, through outreach,
11 research, and educational and cultural community projects. Plaintiff's founders, directors, supporters,
12 patrons, contributors, advisors, and members live in the area affected by the Project's environmental
13 effects, and will suffer injury from adverse environmental impacts caused by this Project if the legal
14 violations alleged herein are not remedied. Plaintiff was formed and brings this action to represent and
15 advocate for the beneficial interests of its founders, directors, supporters, patrons, contributors, advisors,
16 and members in obtaining relief from the legal violations alleged herein and to improve quality of life,
17 protect the environment and implement best planning practices in connection with UC Berkeley's
18 increases in student enrollment and expansion of infrastructure.

19 8. Respondent THE REGENTS OF THE UNIVERSITY OF CALIFORNIA (hereinafter "Regents")
20 is a public trust corporation and state agency established pursuant to the California Constitution vested
21 with administering the University of California including the management and disposition of property of
22 the University and the lead agency for the 2021 LRDP under CEQA, and is thus responsible for
23 analyzing, disclosing, and mitigating the environmental impacts of the 2021 LRDP, including its
24 increase in student enrollment and local populations at the UC Campus and facilities.

25 9. Respondent MICHAEL V. DRAKE is the President of the University of California and is named
26 herein solely in this capacity. Regents' Policy 8103 delegates to the President of the University the
27 Regents' authority for budget or design for capital projects consistent with approved Long Range
28 Development Plans and minor Long Range Development Plan amendments.

10 10. Respondent CAROL T. CHRIST is the Chancellor of the University of California, Berkeley, and
11 named herein solely in this capacity.

1 11. Respondents Regents, Michael V. Drake, and Carol T. Christ are hereinafter collectively referred
2 to as "Respondents."

3 12. Petitioners do not know the true names and capacities of Respondents fictitiously named herein
4 as DOES 1 through 20, inclusive. Petitioners are informed and believe, and thereon allege, that such
5 fictitiously named Respondents are responsible in some manner for the acts or omissions complained of
6 or pending herein. Petitioners will amend this Petition to allege the fictitiously named Respondents' true
7 names and capacities when ascertained.

8 13. Respondents filed a Notice of Determination for the Project with the Governor's Office of
9 Planning and Research on July 22, 2021, and that Notice was posted on July 23, 2021. Petitioners filed
10 this Petition within the thirty (30) day limitations period provided in subdivision (c) of Public Resources
11 Code section 21167(c).

11 **Notice Requirements**

12 14. In accordance with Public Resources Code section 21167.5, Petitioners served Respondents with
13 written notice of commencement of this action on August 20, 2021. The Notice of Commencement of
14 Action and Proof of Service are attached hereto as Exhibit 1.

15 15. In accordance with Public Resources Code section 21167.7 and Code of Civil Procedure section
16 388, Petitioners have provided a copy of this pleading to the Attorney General's office. (See Exhibit 2
17 attached hereto.)

18 **Jurisdiction and Venue**

19 16. Petitioners brings this action in mandamus pursuant to Code of Civil Procedure sections 1085,
20 1088.5, and 1094.5, and Public Resources Code sections 21168 and 21168.5. The Court has jurisdiction
21 over these claims.

22 17. Venue is proper in Alameda County pursuant to Code of Civil Procedure section 393(b) because
23 the Project's environmental impacts will occur in Alameda County and Code of Civil Procedure section
24 394, subdivision (a), because the University of California, Berkeley, and Respondents are situated
25 therein.

26 **Standing**

27 18. Petitioners and, to the extent applicable, their founders, directors, supporters, patrons,
28 contributors, advisors, and members are beneficially interested in Respondents' full compliance with
CEQA. Respondents owed a mandatory duty to comply with CEQA with respect to the 2021 LRDP and

1 the excess increase in student enrollment. Petitioners have the right to enforce the mandatory duties that
2 CEQA imposes on Respondents.

3 **Exhaustion of Administrative Remedies**

4 19. Respondents' approval of the Project is final and not subject to further administrative appeal
5 procedures.

6 20. In accord with Public Resources Code section 21177, subdivision (b), Petitioners objected to
7 Respondents' approval of the Project orally or in writing during the public comment period or prior to
8 the close of the public hearing on the Project before the filing of any Project-related Notice of
9 Determination.

10 21. In accordance with Public Resources Code section 21177, subdivision (a), all alleged grounds for
11 non-compliance with CEQA that are alleged herein were presented to Respondents during the public
12 comment period for, or prior to the close of the public hearing on, the Project.

13 22. In the alternative, pursuant to Public Resources Code section 21177, subdivision (e), there was
14 no opportunity for members of the public to raise the grounds of noncompliance alleged in this Petition
15 prior to Respondents' approval of the Project.

16 **Private Attorney General Doctrine**

17 23. Petitioners bring this action as private attorneys general pursuant to Code of Civil Procedure
18 section 1021.5, and any other applicable legal theory, to enforce important rights affecting the public
19 interest.

20 24. Issuance of the relief requested herein will confer a significant benefit on a large class of persons
21 by ensuring that Respondents complete adequate environmental review of the Project's environmental
22 effects.

23 25. Issuance of the relief requested herein will result in the enforcement of important rights affecting
24 the public interest. By compelling Respondents to complete adequate environmental review or
25 mitigation of the Project's environmental effects, Petitioners will vindicate the public's important CEQA
26 rights to public disclosure regarding and public participation in government decisions that affect the
27 environment.

28 26. The necessity and financial burden of enforcement are such as to make an award of attorney's
fees appropriate in this proceeding because the transgressor is the agency whose duty it is to enforce the
laws at issue in this proceeding.

1 **First Cause of Action**

2 (Violation of CEQA: Pub. Resources Code, § 21000 et seq.)

3 27. Petitioners hereby reallege and incorporate the preceding paragraphs of this Petition and
4 Complaint as though set forth herein in full.

5 28. The paragraphs below refer to and rely on information in documents relating to this action, all of
6 which will be filed with this Court as part of the record of proceedings and which are incorporated by
7 reference.

8 29. Respondents prejudicially abused their discretion in violation of CEQA pursuant to Public
9 Resources Code sections 21168 and 21168.5 and Code of Civil Procedure sections 1085 and 1094.5.

10 30. Respondents violated CEQA because, without limitation, Respondents:

11 a. Certified a EIR that,

- 12 (1) Fails to present stable, accurate, certain project description and to evaluate the
13 whole of the project;
- 14 (2) Fails to accurately and sufficiently describe the affected environmental setting of
15 the project;
- 16 (3) Fails to include information necessary for informed decision making and informed
17 public participation, including information necessary to reach informed
18 conclusions regarding the significance of the Project's environmental impacts, the
19 identification and effectiveness of mitigation measures to avoid the Project's
20 significant environmental impacts, or the feasibility of mitigation measures to
21 reduce the Project's significant environmental impacts;
- 22 (4) Fails to analyze a range of reasonable alternatives;
- 23 (5) Fails to lawfully assess the Project's cumulative effects;
- 24 (6) Fails to present the best available information;
- 25 (7) Fails to provide good faith responses to comments on the draft EIR;

26 b. Failed and refused to recirculate a revised draft EIR including said necessary information;

27 c. With respect to the findings required by CEQA at Public Resource Code section 21081,
28 Respondents failed to make required findings, failed to make required findings in accordance
with law, failed to support the findings made with substantial evidence, and failed to disclose the
analytic route showing how the evidence supports said findings.

