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6 Attorneys for Plaintiffs Alireza Hadian, Trustee of the  
7 Hadian Family 2008 Revocable Trust; Alireza Hadian

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
9 **COUNTY OF SAN LUIS OBISPO**

11 ALIREZA HADIAN, Trustee of the HADIAN  
FAMILY 2008 REVOCABLE TRUST dated  
12 November 11, 2008; ALIREZA HADIAN, an  
individual,

13 Petitioners and Plaintiffs,

14 v.

15 CALIFORNIA COASTAL COMMISSION, an  
16 agency of the State of California; and DOES 1-  
20, inclusive,

17 Respondent and Defendant.  
18

CASE NO.:

**VERIFIED PETITION FOR WRIT OF  
ADMINISTRATIVE MANDAMUS AND  
COMPLAINT FOR INVERSE  
CONDEMNATION**

19  
20 By this verified petition, Petitioners and Plaintiffs ALIREZA HADIAN, as Trustee of the  
21 HADIAN FAMILY 2008 REVOCABLE TRUST, and ALIREZA HADIAN allege as follows:

22 **PARTIES**

23 1. Petitioners and Plaintiffs ALIREZA HADIAN, as trustee of the HADIAN FAMILY  
24 2009 REVOCABLE TRUST, and ALIREZA HADIAN (collectively, "Hadian") are now, and  
25 were at all times relevant to this matter, the owner of real property located in Cambria,  
26 California, commonly known as 6758 Cambria Pines Road, Cambria, California, 93428 with  
27 San Luis Obispo Assessor's Parcel Number 013-085-002 (the "Property"). Hadian has applied  
28 for a coastal development permit ("CDP") to construct a single-family residence on the

1 Property, which the County of San Luis Obispo ("County") granted. However, Respondent  
2 California Coastal Commission took jurisdiction over the County's approval, then denied  
3 Hadian's permit. Hadian challenges the Commission's actions in the case.

4 2. Respondent and Defendant CALIFORNIA COASTAL COMMISSION  
5 ("Commission") is a state land-use agency charged with administration of the California  
6 Coastal Act of 1976 ("Coastal Act"). Under limited circumstances, the Commission has the  
7 jurisdiction to review a County's permit approvals. Here, the Commission accepted an appeal  
8 from the County's approval of Hadian's CDP, then denied Hadian a CDP to construct on his  
9 Property.

10 3. Hadian is unaware of the true names and identities of those persons named herein as  
11 DOES 1 through 20, inclusive, and upon ascertaining said true names and identities, will  
12 amend this Petition accordingly.

### 13 JURISDICTION AND VENUE

14 4. This Court has jurisdiction over this action pursuant to Code of Civil Procedure Section  
15 1094.5 and Public Resources Code section 30801.

16 5. Venue is proper in this Court because the Property that is subject to this lawsuit is  
17 located in the County of San Luis Obispo.

### 18 LEGAL BACKGROUND

#### 19 The Commission's Authority and Relationship With Local Governments

20 6. "The Commission, like all administrative agencies, has no inherent powers." (*Security*  
21 *Nat'l Guard. V. Cal. Coastal Comm'n* ("SNG") (2008) 159 Cal.App.4th 402, 419.) The  
22 Commission only possesses those powers that have been granted to it by the California  
23 Constitution or by the Coastal Act. (Pub. Res. Code § 30000 *et seq.*) Thus, the Commission  
24 only enjoys some authority, but not unlimited authority to act in that area. Thus, if the  
25 Commission takes an action that is inconsistent with or unauthorized by the Coastal Act, the  
26 action is void. (*SNG*, 159 Cal.App.4th at 419.)

27 7. Among other things, the Coastal Act requires that each local government lying, in  
28 whole or in part, within the coastal zone prepare a Local Coastal Program ("LCP") for that

1 portion of the coastal zone under the local government's jurisdiction. (Pub. Res. Code §  
2 30500(a).) An LCP consists of (1) a Land Use Plan ("LUP") and (2) "implementing actions,"  
3 such as zoning ordinances and maps. (*Id.* §§ 30108.6; 30108.4, 30108.5.)

4 8. Pursuant to the Coastal Act, the local government is the author of its LCP. Specifically,  
5 "[t]he precise content of each local coastal program shall be determined by the local  
6 government... in full consultation with the commission and with full public participation."  
7 (Pub. Res. Code § 30500(c).)

8 9. Once the local government drafts the LCP, it is submitted to the Commission for  
9 certification. (Pub. Res. Code § 30510.) If the LUP meet the requirements of and is in  
10 conformity with the policies of Chapter 3 of the Coastal Act, the Commission shall certify the  
11 LUP. (Pub. Res. Code § 30512(c).) "The [C]ommission's review of a land use plan shall be  
12 limited to its administrative determination that the land use plan submitted by the local  
13 government does, or does not conform with the requirements... In making this review, the  
14 [C]ommission is not authorized by any provision of this division to diminish or abridge the  
15 authority of a local government to adopt and establish, by ordinance, the precise content of its  
16 land use plan." (Pub. Res. Code § 30512.2(a).)

17 10. Further, "[t]he [C]ommission may only reject zoning ordinances, zoning district maps, or  
18 other implementing actions on the grounds that they do not conform with, or are inadequate to  
19 carry out, the provisions of the certified land use plan." (Pub. Res. Code § 30513(b).)

20 11. Once an LCP is certified by the Commission, the local government is the agency with  
21 the power to implement it, including the power to issue CDPs for projects within its  
22 jurisdiction. (*SNG*, 159 Cal.App.4th at 421.) "Once the LCP is certified, 'the Commission's  
23 role in the permit process for coastal development [is] to hear appeals from decision by [the  
24 local government] to grant or deny permits.'" (*Id.*) "The Commission's jurisdiction in such  
25 appeals, however, is limited." (*Id.*)

26 12. Thus, the Commission may only take jurisdiction over appeals for certain types of  
27 projects, pursuant to Public Resource Code section 30603(a). Also, the Commission may only  
28 take jurisdiction over an appealable project if there is a "substantial issue"

1 as to the project's conformance to the certified LCP and the Coastal Act's public access  
2 policies. (Pub. Res. Code §§ 30603(b)(1), 30625(b)(2).)

3 13. If the Commission disagrees with an aspect of a certified LCP, or its implementation,  
4 the Commission has no power to unilaterally amend or delete the offending provision, or  
5 require local government to do so. (SNG 159 Cal.App.4th at 421.) Consistent with the statutory  
6 mandate that the local government is the author of the LCP, only the local government can  
7 amend a LCP. (Pub. Res. Code § 30514(a).)

8 **San Luis Obispo County's Local Coastal Plan**

9 14. San Luis Obispo County's LCP ("SLO LCP") was certified by the Commission in 1986  
10 and adopted by the County in 1988. Since 1988, the County has been the administrator and  
11 enforcer of the SLO LCP, with original jurisdiction over the projects within its boundaries.

12 15. Under the SLO LCP, only a small number of projects are appealable to the Commission  
13 based on the project's location or special characteristics. (San Luis Obispo County Coastal  
14 Zone Land Use Ordinance ("CZLUO") § 23.01.043(c).)

15 16. A County-approved project may be appealed to the Commission if it is located in an  
16 area "mapped and designated as Environmentally Sensitive Habitats (ESHA) in the Local  
17 Coastal Plan." (CZLUO § 23.01.043(3)(i).)

18 17. A Mapped ESHA is defined as:

19 A type of Sensitive Resource Area where plant or animal life or their habitats  
20 are either rare or especially valuable because of their special nature or role in  
21 an ecosystem and which could easily disturbed or degraded by human  
22 activities and development. They include wetlands, coastal streams and  
23 riparian vegetation, terrestrial and marine habitats and are mapped as Land  
24 Use Element combining designations. Is the same as an Environmentally  
25 Sensitive Habitat. (CZLUO § 23.11.030.)

26 18. Consistent with the Public Resources Code, when a County-approved CDP is appealed  
27 to the Commission, it must first decide whether the project is appealable under the CZLUO,  
28 and, if so, whether the County approval raises a substantial issue as to the projects conformity  
to the LCP or the Act's public-access policies. (CZLUO §§ 23.01.043(c), 23.01.043(d).)

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1 19. If the project is appealable and raises a "substantial issue," then the Commission may  
2 take jurisdiction. If the project is not appealable or does not raise a "substantial issue," then the  
3 Commission must dismiss the appeal and allow the County-approved CDP to stand.

#### 4 **FACTUAL ALLEGATIONS**

##### 5 **Tract 1804's History**

6 20. The Property is a lot located in Tract 1804 in Cambria, California.

7 21. Walter H. Leimert Company ("Leimert"), owned property in Cambria, including the  
8 portion that ultimately became Tract 1804. In 1969, Leimert entered into an agreement with the  
9 Cambria County Water District to supply water to its property.

10 22. In 1985, Leimert and the Cambria Community Services District ("CCSD"), the  
11 successor-in-interest to the Cambria County Water District, entered into a further agreement to  
12 provide water to the Leimert property, again including the future Tract 1804.

13 23. In 1989, Leimert filed an application with the County for Tract 1804 to subdivide  
14 approximately 380 acres. A small portion of the acreage was subdivided into eighteen single-  
15 family residential lots, with designated building envelopes. The majority of the subdivision was  
16 deeded to the County as an open-space easement. The application was reviewed by the  
17 Commission which submitted several comments, including the necessity of locating and  
18 clustering building sites to minimize impacts on the Monterey Pine Forest and approving a  
19 Monterey Pine Forest Mitigation Program.

20 24. In 1992, Assistant District Director Daniel Loomis noted in a letter that at least a portion  
21 of Tract 1804 was located outside the Urban Services Line ("USL"). Because both the County's  
22 Land Use Ordinance and the North Coast Area Plan ("NCAP") prohibited "new community  
23 water or sewer service" for properties outside the USL, the Commission questioned whether the  
24 application could be processed.

25 25. Subsequently, the issue regarding the USL was submitted to the Commission for  
26 determination. On July 10, 1995, Mr. Loomis provided the Commission's position in a letter.  
27 The letter clarified that his 1992 comments were not a determination that an amendment to the  
28 USL was necessary. In fact, Mr. Loomis stated that the issue of water service to Tract 1804 had

1 been settled before the Coastal Act: "It is our understanding now that the CCSD's water and  
2 sewer lines [serving Tract 1804] and boundary pre-date the LCP. Given this, we do not feel that  
3 the subdivision must be brought within the USL, especially since the proposed density outside  
4 the USL is appropriate and is consistent with the LCP."

5 26. In reliance on the Commission's position, the County continued to process the  
6 subdivision application.

7 27. A draft Environmental Impact Report ("EIR") was prepared to analyze the potential  
8 environmental impacts and to consider mitigation measures for Tract 1804. Coastal Planner,  
9 Steve Guiney, reviewed the draft EIR, made several comments, and reiterated that due to the  
10 pre-existing contract with the CCSD for water service, an amendment to the USL was not  
11 necessary for Tract 1804 to proceed.

12 28. The Final EIR for Tract 1804 was certified, after full review and comments by  
13 Commission staff, on July 10, 1997 and the tentative Tract Map 1804 was approved.

14 29. After approval of the Tract Map, a dispute arose between Leimert and the CCSD. The  
15 CCSD believed Tract 1804 should be listed as part of the CCSD's water waiting list. Leimert  
16 argued it had priority to water connection based on its 1969 agreement.

17 30. The dispute resulted in a lawsuit filed in the San Luis Obispo County Superior Court. In  
18 1999, the parties entered into a settlement agreement and, subject to certain terms and  
19 conditions, the CCSD agreed to provide water service to the lots created by Tract 1804.

20 31. The conditions to the settlement agreement included: (i) CCSD would issue a will-serve  
21 letter for all eighteen lots in Tract 1804; (ii) lot owners would institute and maintain stringent  
22 water conservation measures; (iii) each lot would be connected and metered to the CCSD water  
23 system; (iv) upon installation, Leimert and successor lot owners would be billed immediately  
24 for water services; and (v) the CCSD would treat each lot owner the same as any other existing  
25 residential CCSD customer.

26 32. On June 1, 2020, the Cambria Community Services District ("CCSD") issued a "will-  
27 serve" letter for Tract 1804 and the final Tract Map was recorded. This will-serve letter  
28 informed the developers of Tract 1804 that the CCSD was ready, willing, and able to supply

1 water services to the lots within Tract 1804, including the Property.

2 33. On or before April 16, 2001, all potential residential lots within Tract 1804, including  
3 the Property, were connected to the CCSD water systems with meters. Thus, Hadian's Property  
4 has had water rights since 1969 and has been connected to the CCSD water systems since  
5 2001. Additionally, Tract 1804 paid substantial amounts in water connection fees and  
6 surcharges for each lot. Each lot owner within Tract 1804 have been paying the standard water  
7 usage charges in effect at the time of connection, including actual water used, ordinary  
8 standby, and minimum monthly user charges. Therefore, all Tract 1804 lot owners have been  
9 and continue to be existing customers of the CCSD.

10 **The Moratorium And The Property's Exemption From Its Restrictions**

11 34. On October 23, 2000, the CCSD adopted Ordinance No. 2-2000 (the "Moratorium")  
12 which created a moratorium on new water connections to the CCSD for development. The  
13 Moratorium made clear that certain properties were exempt from the Moratorium because they  
14 were already connected, metered, or otherwise committed.

15 35. "Existing Commitments" is expressly defined in the Moratorium as:

16 "Existing Commitments"- Service commitments made to District customers,  
17 including Active Service Commitments, Non-Active Service Commitments,  
18 and Parks/Landscaping/Irrigation Commitments, as established by Section  
19 2.5-3. The Table of Existing Commitments in Exhibit B inventories Non-  
Active Service Commitments and Parks/Landscaping/Irrigation  
Commitments.

20 36. "Non-Active Service Commitments" is expressly defined in the Moratorium as:

21 This category of parcels with what the District has determined have pre-  
22 existing (grandfathered) commitments for service, but which do not have  
23 active service uses. Non-Active Service parcels are listed by current  
24 Assessor Parcel Number ("APN"), prior APN (if applicable), address,  
account number (if any) and status, including the type (single-family  
residential, multi-family residential, commercial, or affordable housing) and  
number of EDUs assigned.

25 37. All lots in Tract 1804, including Hadian's Property, are individually and expressly  
26 identified as Non-Active Service Commitments/Grandfathered Meters on Exhibit B to the  
27 Moratorium. Additionally, each lot within Tract 1804 was assigned one (1) equivalent dwelling  
28 unit ("EDU") by the CCSD to project anticipated use. The CCSD utilized these EDUs to find

1 that it had a sufficient water supply to meet its Existing Commitments in the future. The  
2 Property, as of November 15, 2001, and continuing through today, has been an Existing Water  
3 Service Commitment and is exempt from the Moratorium.

4 38. In 2007, the County was in the process of amending the NCAP, which is part of the  
5 County's LUP. The Commission considered the draft plan and provided comments and  
6 suggested changes which the County ultimately adopted, specifically in reference to the  
7 exempt properties under the Moratorium. Following the 2007 amendment, the NCAP provides:

- 8  
9 1. Water Service in Cambria. Until such time as may be otherwise authorized  
10 through a coastal development permit approving a major public works  
11 water supply project for Cambria, new development not using CCSD  
12 connection or water service commitments existing as of November 15,  
2001 (including those recognized as "pipeline projects" by the Coastal  
Commission on December 12, 2002 in coastal development permits A-3-  
SLO-02-050 and A-3-02-073), shall assure no adverse impacts to Santa  
Rosa and San Simeon Creeks.

13 39. The Property is indisputably a "water service commitment existing as of November 15,  
14 2001," and, thus, exempt from the requirement to show no adverse impacts on the Santa Rosa  
15 and San Simeon creeks.

16 40. Since 2007, the County has consistently approved CDPs for lots located in Tract 1804,  
17 consistent with the SLO LCP, NCAP, and the Moratorium exemptions. These County-  
18 approved CDPs were allowed to move forward with no interference from the Commission. To  
19 date, nine of the eighteen lots have been developed. Now, suddenly, the Commission claims  
20 that Tract 1804 is an illegal subdivision, is not exempt from the Moratorium despite clear  
21 language that carves out the entire Tract 1804, and that Cambria has no water to serve these  
22 lots.

23 **Tract 1804 And The Monterey Pine Forest**

24 41. The Commission further alleges that Hadian's project required denial because the  
25 Property is located within native Monterey Pine Forest and is mapped and designated ESHA.

26 42. The SLO LCP provides: "all development and land divisions within or adjacent to an  
27 Environmentally Sensitive Habitat Area shall be designed and located in a manner which  
28 avoids any significant disruption or degradation of habitat values." (CZLUO § 23.07.170(e).)

1 Development within an ESHA “shall be limited to those uses that are dependent upon the  
2 resource.” (CZLUO § 23.07.170(e)(1)(i).) However, “[w]here the project results in an  
3 unavoidable loss (i.e., temporary or permanent conversion) of habitat area, replacement habitat  
4 and/or habitat enhancements shall be provided and maintained by the project applicant.”  
5 (CZLUO § 23.07.170(e)(1)(iv).)

6 43. Additionally, where development in an ESHA must be allowed to avoid an  
7 unconstitutional taking, as is here, the following standards shall apply: (1) the amount and type  
8 of development shall be the least necessary to avoid a taking; (2) all impacts shall be avoided  
9 to the maximum extent feasible, with unavoidable impacts being limited; and (3) all adverse  
10 impacts shall be mitigated. (CZLUO § 23.07.170(e)(2).)

11 44. The NCAP provides: “The larger remaining stands [of Monterey Pine Forest] in  
12 undeveloped areas should be retained intact as much as possible, by designing cluster  
13 development at very low densities in open areas or areas of sparse tree cover.”

14 45. The development sites under the approved Tract 1804 Map were pre-approved and  
15 clustered near public roads to minimize intrusion on the surrounding environment, including  
16 the Monterey Pine Forest. The cluster development was recommended by the Commission.

17 46. The ESHA policies provide:

18 As a condition of permit approval, the applicant is required to demonstrate  
19 that there will be no significant impact on sensitive habitats and that proposed  
20 development or activities will be consistent with the biological continuance of  
21 the habitat. This shall include an evaluation of the site prepared by a qualified  
22 professional which provides: a) the maximum feasible mitigation measures  
23 (where appropriate), and b) a program for monitoring and evaluating the  
24 effectiveness of mitigation measures where appropriate.

25 47. The Monterey Pine Forest Mitigation Program (“Mitigation Program”) was included in  
26 Tract 1804’s final EIR at the insistence of the Commission. The Mitigation Program provides  
27 steps to mitigate any development impact on the forest to less than significant.

28 48. The Mitigation Program’s procedure includes:

- a. Identifying Monterey pine saplings with diameters of two inches or smaller and  
relocating those saplings;

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- b. Replacing all removed pine trees with diameters of six inches or greater with in-kind specimens at a four to one (4:1) ratio; and
- c. Monitoring the health and maintenance of the relocated and newly planted trees annually for a minimum of three years.

49. The County's Conditions of Approval for Hadian's CDP are consistent with the Mitigation Program, aside from the County's minimum maintenance period being five years instead of three. The County stated that implementation of the mitigation measures reduced the project's impact on the Monterey Pine Forest to less than significant, which is consistent with the SLO LCP.

#### **Hadian's Application For A CDP And The Commissions Unlawful Actions**

50. In 2020, Hadian applied for a CDP (County File Number: DRC2020-00107) from the County to construct a single-family residence on the Property. The County approved Hadian's application, noting that the Property was exempt from the Moratorium.

51. In October 2021, the County's CDP was appealed to the Commission by Elizabeth Bettenhausen, Ted Key, Christine Heinrichs, Commissioner Linda Escalante, and Commissioner Dr. Caryl Hart, and was assigned appeal number A-3-SLO-21-0066 ("Appeal").

52. On November 17, 2021, a substantial issue hearing regarding the Appeal was held before the Commission. It found that a substantial issue existed, pursuant to the Commission Staff's recommendation.

53. On or around March 11, 2022, the de novo Appeal hearing was held. At this hearing, Hadian's representative made a presentation warning the Commission that it had accepted the appeal based on its staff's incorrect reading of the Moratorium and the SLO LCP. Hadian's representative also warned the Commission that denying the project would result in Hadian's loss of any economically viable or beneficial use of his Property, which would result in an unlawful taking. Additionally, a representative from the CCSD spoke and stated that it had sufficient water to provide water service to the Property. The Commission unanimously voted to adopt Commission Staff's recommendation and deny Hadian's project, essentially adopting all of its staff's findings for denial of the project.

1 54. The Commission's decision denying Hadian a CDP is final, and Hadian has exhausted  
2 all administrative remedies.

3 55. The Commission's decision has resulted in Hadian's loss of economically beneficial  
4 and viable use for his Property, for which Hadian has incurred substantial damages.

5 **FIRST CAUSE OF ACTION**

6 **FOR WRIT OF ADMINISTRATIVE MANDAMUS**

7 56. Hadian realleges and incorporates by reference each and every allegation of the above  
8 paragraphs 1 through 55, inclusive, as though fully set forth herein.

9 57. Pursuant to Public Resources Code section 30801, any aggrieved person, such as  
10 Hadian, has the right to judicial review of the Commission's decision pursuant to Code of Civil  
11 Procedure section 1094.5.

12 58. Section 1094.5 authorizes a writ of mandate for the purpose of inquiring into the  
13 validity of any final administrative decision made as a result of a proceeding in which by law a  
14 hearing is required to be given, evidence is required to be taken, and discretion is vested in the  
15 agency.

16 59. The inquiry in such a case extends to the questions whether the agency has proceeded  
17 without, or in excess of, jurisdiction; whether there was a fair trial; and whether there was any  
18 prejudicial abuse of discretion. Abuse of discretion is established if the respondent has not  
19 proceeded in the manner required by law, the order or decision is not supported by the  
20 findings, or the findings are not supported by the evidence.

21 60. In denying the CDP, the Commission proceeded in excess of jurisdiction because no  
22 "substantial issue" existed with respect to the project's conformity to the SLO LCP and NCAP  
23 and it does not have the authority to allocate water among CCSD customers.

24 61. In denying Hadian a CDP, the Commission prejudicially abused its discretion, among  
25 other things, as follows:

26 a. The Commission's finding that Hadian's project violates the NCAP provisions  
27 regarding water in Cambria finds no support in the law, the facts, or substantial evidence in the  
28 record. The law and record establish that the Property has had water rights dating back to 1969

1 and is exempt from the Moratorium under the NCAP provisions and the Moratorium itself.  
2 There is no legitimate basis for differentiating among existing CCSD customers, regardless of  
3 whether their property is improved.

4 b. The Commission's findings that the project violates the SLO LCP provisions  
5 because it cannot show adequate water finds no support in the law, the facts, or substantial  
6 evidence in the record. The Commission asserts that there is no water in Cambria to service  
7 customers and, thus, all development must be halted regardless of water rights. This finding is  
8 invalid. The law and record establish that the Property was afforded one EDU at the time the  
9 Moratorium was enacted, and thus was accounted for in Cambria's future water supply.  
10 Additionally, the CCSD itself stated during the Appeal hearing that it has sufficient water  
11 supply to service the Property, which is supported by a recent water study. By its baseless  
12 findings, the Commission has essentially implemented a *de facto* moratorium on development  
13 without any legal authority to do so.

14 c. The Commission's findings that the project violates the SLO LCP because it is  
15 located in a mapped ESHA finds no support in the law, the facts, or substantial evidence in the  
16 record. The law and record establish that projects in ESHA can proceed to avoid a taking if the  
17 applicant mitigates the impacts to the area. The County approved Hadian's CDP subject to  
18 Conditions of Approval that required mitigation of any impact to the Monterey Pine Forest and  
19 the building envelope was pre-designated to reduce any impact to the Forest.

20 62. The Commission acted arbitrarily and capriciously in denying Hadian a CDP.

21 63. Hadian has no plain, speedy, or adequate remedy in the ordinary course of law.

22 64. Hadian is entitled to attorney's fees and costs pursuant to, inter alia and without  
23 limitation, Government Code section 800 and Code of Civil Procedure section 1021.5.

24 **SECOND CAUSE OF ACTION**

25 **FOR INVERSE CONDEMNATION (PERMANENT TAKING)**

26 65. Hadian realleges and incorporates by reference each and every allegation of the above  
27 paragraphs 1 through 64, inclusive, as though fully set forth herein.

28

1 66. The Takings Clause of the Fifth Amendment to the United States Constitution, made  
2 applicable to state and local governments via the Fourteenth Amendment, bars the taking of  
3 private property for a public use without just compensation. (U.S. Const. amends. X, XIV.)

4 67. Governmental action can cause a taking based on three factors: (1) the economic impact  
5 of the action; (2) the extent to which the action has interfered with investment-backed  
6 expectations; and (3) the character of the action. (*Penn Cent. Transp. Co. v. New York City*  
7 (1978) 438 U.S. 104, 124.)

8 68. A categorical taking occurs when the government deprives an owner of all  
9 "developmental or economically beneficial" or "viable" use of his property. (*Lucas v. South*  
10 *Carolina Coastal Council* (1992) 505 U.S. 1003, 1016, 1018, n. 12.)

11 69. The Commission's denial of Hadian's CDP to build a single-family residence on his  
12 Property effects an unconstitutional taking under the Fifth Amendment.

13 70. The Commission has denied a CDP to build a home on the Property, which is the  
14 reason the Property was purchased and Tract 1804 was developed. Additionally, the  
15 Commission's findings that there is no water in Cambria to serve existing customers and that  
16 the pre-approved building envelope is in a mapped ESHA precludes all economically viable  
17 and beneficial use of the property, and therefore has resulted in a taking of Hadian's Property  
18 under *Lucas*. In the alternative, the *Penn Central* factors weigh in favor of finding that the  
19 Commission's decision effects a taking.

20 71. The Commission's decision is final and ripe for review as Hadian has exhausted all  
21 administrative remedies and the decision indefinitely precludes construction on the Property.

22 72. Hadian is entitled to attorney's fees and costs under Government Code 800, Code of  
23 Civil Procedure section 1021.5, Code of Civil Procedure section 1036, and any other applicable  
24 fee-shifting statute or rule.

25 **THIRD CAUSE OF ACTION**  
26 **FOR INVERSE CONDEMNATION (TEMPORARY TAKING)**

27 73. Hadian realleges and incorporates by reference each and every allegation of the above  
28 paragraphs 1 through 72, inclusive, as though fully set forth herein.

74. The Commission's March 11, 2022 decision denying Hadian a CDP to build a single-family residence on his Property has effected a taking of the Property for the period of time during which Hadian has been wrongfully deprived of all economically beneficial or productive use of said Property. The Commission has temporarily taken that Property without payment of just compensation, resulting in an unconstitutional taking.

75. As a direct and proximate result of the unconstitutional temporary taking, Hadian has suffered substantial damages, the precise amount to be proven at the time of trial.

76. Hadian is entitled to attorney's fees and costs under Government Code 800, Code of Civil Procedure section 1021.5, Code of Civil Procedure section 1036, and any other applicable fee-shifting statute or rule.

### **PRAYER FOR RELIEF**

WHEREFORE, Hadian requests relief as follows:

#### **ON THE FIRST CAUSE OF ACTION:**

1. A writ of mandated ordering Respondent California Coastal Commission to:

a. Vacate and set aside its March 11, 2022 decision denying Hadian a CDP for construction of a single-family residence on the Property, and grant the CDP as approved by the County.

#### **ON THE SECOND CAUSE OF ACTION:**

2. A declaration that the Commission's March 11, 2022 decision effects an unconstitutional permanent taking of Hadian's Property; and

3. An award of damages and just compensation, plus interest thereon, for the permanent taking of said Property, the precise amount to be proven at the time of trial.

#### **ON THE THIRD CAUSE OF ACTION:**

4. A declaration that the Commission's March 11, 2022 decision effects an unconstitutional temporary taking of Hadian's Property during the time Hadian has been deprived of all developmental and economically beneficial use of said Property; and

5. An award of damages and just compensation, plus interest thereon, for the temporary taking of said Property, the precise amount to be proven at the time of trial.

**ON ALL CAUSES OF ACTION:**

6. Reasonable attorneys' fees and costs under Government Code section 800, Code of Civil Procedure section 1021.5, Code of Civil Procedure section 1036, and/or any other applicable fee-shifting statute or rule; and

7. Such other and further relief as the Court may deem appropriate.

Date: May 9, 2022

ADAMSKI MOROSKI MADDEN  
CUMBERLAND & GREEN LLP



THOMAS D. GREEN  
Attorneys for Petitioner and Plaintiff Alireza  
Hadian

**VERIFICATION**

I, Alireza Hadian, declare as follows:

I am the Petitioner and Plaintiff in this action and am the owner of the property located at 6758 Cambria Pines Road, Cambria, California, 93428. I have read the foregoing VERIFIED PETITION FOR WRIT OF ADMINISTRATIVE MANDAMUS AND COMPLAINT FOR INVERSE CONDEMNATION, and know its contents. The factual matters state therein are true of my own knowledge, except as to those factual matters that are state on information and belief, and as to those matters, I believe them to be true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on May 9, 2022, in San Luis Obispo County, California.



Alireza Hadian